DOCUMENT RESUME

ED 165 931 RC 011 094

TITLE	Indian Education--Oversight; Part II: School Construction--Johnson-O'Malley. Hearings Before the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, House of Representatives, 95th Congress, 1st Session (September 21 and October 6, 1977).
INSTITUTION	Congress of the U.S., Washington, D.C. House Committee on Education and Labor.
PUB DATE	77
NOTE	264p.; Not available in hard copy due to small print size of original document
EDRS PRICE	MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS	*Access to Education; American Indians; Educational Needs; Educational Programs; *Federal Aid; Federal Legislation; Financial Problems; Government (Administrative Body); Government Role; *Hearings; Legislation; Nonreservation American Indians; Reservations (Indian); *School Construction; *School Design; Treaties; Tribes
IDENTIFIERS	*American Indian Education; *Bureau of Indian Affairs; Federal Indian Relationship; Johnson OMalley Act

ABSTRACT

Oversight hearing held on two days in September and October of 1977 focused on school design and construction by the Bureau of Indian Affairs (BIA) and on the supplemental and basic support offered to Indian education by the Johnson O'Malley program. On both days Dr. William Demmert, Jr., Director of the Office of Indian Education Programs, BIA, appeared as a principal witness. In a panel discussion with other BIA officials and a representative from the General Services Administration Dr. Demmert described the new five year system the BIA had developed to identify need and define priorities in its school construction programs; he also presented a list of the 23 projects to be initiated under the plan. A representative from the Hopi tribe appeared to tell of frustrations the tribe was encountering in trying to get the BIA to begin design of a new high school. The hearing on the Johnson O'Malley fund system dealt specifically with the current phase-out of the basic support funds and problems encountered by tribes with the supplemental assistance. Dr. Demmert and two other BIA officials appeared to answer questions regarding BIA support of schools. Testimony was also offered by representatives from the Omaha, Winnebago, Santee Sioux and Minnesota Chippewa tribes. Directors from two alternative or experimental Indian schools also appeared. This document includes hearing proceedings, formal statements, and supplementary materials. (DS)

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INDIAN EDUCATION—OVERSIGHT

Part II: School Construction—Johnson-O'Malley

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

HEARINGS HELD IN WASHINGTON, D.C.,
SEPTEMBER 21; AND OCTOBER 6, 1977

Printed for the use of the Committee on Education and Labor

CARL D. PERKINS, *Chairman*

RC 011094

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Part II: School Construction—Johnson-O'Malley

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INDIAN EDUCATION—OVERSIGHT

Part II: School Construction—Johnson O'Malley

WEDNESDAY, SEPTEMBER 21, 1977

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:10 p.m. in room 2257, Rayburn House Office Building, Hon. Michael Blouin presiding.

Members present: Representatives Blouin, Quie and Pressler.

Staff present: John Forkenbrock, staff director, Jeff McFarland and Scherri Tucker, majority staff, and Jennifer Wysong, minority staff.

Mr. Blouin. The subcommittee will come to order.

This afternoon, the Advisory Study Group on Indian Education in conjunction with the Subcommittee on Elementary, Secondary and Vocational Education, is conducting an oversight hearing on the subject of school construction. School construction is probably one of the most frequently commented on subjects one hears and in addition, the subject has traditionally generated a great deal of discussion within the House Interior Appropriations Subcommittee.

This concern culminated in this Congress when language was placed in the fiscal year 1978 appropriations bill stipulating that GSA would henceforth supervise all phases of Bureau construction.

I want to emphasize that the purpose of this oversight hearing this afternoon is not to preclude anything done by the House Interior or Appropriations Subcommittee. Rather, it is to set down for the record the current methodology employed by the Bureau in its school construction program.

It would be my hope that today's hearing would assist us, this subcommittee, Bureau, and the GSA to understand each other's role in school construction and to explore possible avenues by which the program can be improved in the future.

I know that both this committee's and the Interior Appropriations Subcommittee's staffs have conversed with the Bureau over the present construction program and I would hope that this dialog will continue. Again, allow me to emphasize that today's hearing is one which I hope will be for information gathering. Also, I hope that it will serve as a beginning in which we can all work together to address the future needs of school construction as it relates to the improvement of construction for the American native.

With that having been said, I would like to begin with a panel made up of Dr. William Demmert, Director, Office of Indian Education Programs, BIA; Mr. James Shea, Commissioner of Public Buildings. GSA; and Mr. Jose Zuni, Director, Office of Administration, BIA.

They will be accompanied by Mr. William Ott, who is the Assistant Director for Support Services, Office of Administration, BIA; and Mr. John Carmody, Chief of the Division of School Facilities, Office of Indian Education Programs, BIA.

Following that panel, we will proceed to the final witness.

Dr. Demmert, feel free to move this in any direction you would like at this point.

[The prepared statement of William Demmert follows:]

STATEMENT OF DR. WILLIAM G. DEMMERT, JR., DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION, COMMITTEE ON EDUCATION AND LABOR, HEARING ON BIA SCHOOL CONSTRUCTION, SEPTEMBER 21, 1977.

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify today on the Bureau of Indian Affairs school construction program. Facility planning and construction in the Bureau has unquestionably, met many needs in the past years. The schools built were so necessary that sophisticated planning was usually superseded by accelerated construction schedules. Population growth, educational demands and many other factors necessitated the construction of schools or replacement of existing schools, at any given place or time.

Changes have occured and continue to occur altering the previous concept of school construction. A major problem relating to construction that has been identified by the Bureau is that of developing an equitable system for prioritizing school construction.

The Bureau has developed such a system and has submitted it for publication in the Federal Register. The system is based upon two factors: (1) the extent that Indian children are unhoused and (2) the physical condition and adequacy of existing school facilities. The ranking of school construction applications is based upon complete demographic studies and engineering reports on facility conditions and alternatives to Federal schools. Alternatives include the availability and adequacy of public schools, tribally operated schools, private or parochial schools, and off-reservation boarding schools.

The Bureau believes that children should be educated within their communities whenever possible. Although past studies have shown a slight decline in Indian enrollments in Federal schools during the past decade, especially in off-reservation boarding schools, more recent studies show that Indian enrollments are leveling off and in some instances increasing. The Department is preparing an analysis during the next six months on the utilization and need for off-reservation boarding schools.

In its attempt to meet school construction needs the Bureau is involving local tribal groups in its planning and prioritizing process to a greater extent. They are asked to prepare a Comprehensive Education Plan and establish their local priorities. Attendance boundaries are being established and greater control over enrollment policies recommended.

We believe that the prioritizing system is fair and adequate. It involves the Indian communities and Bureau personnel. It is imperative that we follow the priority list to ensure a well planned system based on validated need and priority. The basis for the appropriation request is determined by the construction needs as indicated by the priority system.

The specific objective of the priority system is to devise a process which will discieminate between the degree or extent that Indian children are unhoused in context with minimum school facilities.

Minimum facilities are defined as classrooms, auxiliary rooms, and support facilities necessary to operate an approved educational program for the membership of the school at normal capacity. For BIA schools it must be recognized that the type of facilities to be included as "minimum" varies between schools (boarding vs. day, the need for utilities, maintenance shops, health stations, employee quarters, etc.) Hence, the first step in prioritizing is to determine that the type of facilities requested conform to BIA standards for minimum school facilities.

The second step involves the determination of the number and percent of children that are unhoused in relation to the present facilities. The discriminating factors identified to assist in this determination are:

a. a facility is condemned or destroyed by act of God;

b. a facility is educationally non-functional;

c. a facility is costly or impractical to maintain.

A third step is to determine the relative acuteness of the problem; that is, unhoused children in relation to the nearest available classroom space. The factors considered are:

a. those unhoused within their BIA Area;

b. those unhoused within their BIA Agency and/or reservation;

c. those unhoused within their community.

The scoring system is based upon the above factors as presented and documented in the project application.

One other factor should be considered. Emergencies will be handled outside the priority system. Emergencies include facilities that have been destroyed by a disaster or condemned units in school complexes when their replacement is essential to the continued operation of the on-going program of the particular school.

STATEMENT OF DR. WILLIAM DEMMERT, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BIA; JAMES B. SHEA, COMMISSIONER, PUBLIC BUILDINGS SERVICES, GENERAL SERVICES ADMINISTRATION; JOSE A. ZUNI, DIRECTOR, OFFICE OF ADMINISTRATION, BUREAU OF INDIAN AFFAIRS; ACCOMPANIED BY WILLIAM OTT, ASSISTANT DIRECTOR FOR SUPPORT SERVICES, OFFICE OF ADMINISTRATION, BIA; AND JOHN CARMODY, CHIEF, DIVISION OF SCHOOL FACILITIES, OFFICE OF INDIAN EDUCATION PROGRAMS

Mr. DEMMERT. Thank you.

Even though my statement is very short, let me just mention a couple of the high points and then, as far as we are concerned, we are ready to respond to any questions that you might have.

As you know, the Bureau has undergone some substantial investigations in the area of school construction and plant maintenance and operations, and in the past year, Mr. Zuni's office and mine have been working to improve that process.

In the Office of Indian Education Programs we developed a new system for identifying need and prioritizing that need, which we will be glad to go into. In Mr. Zuni's shop, they have projected that need, in a long range construction plan with dates for when construction would be completed, tied to the amount of money we had available in any particular year.

The priority system that we have identified is moving forward for publication in the Federal Register. We have walked through it this year in developing our fiscal year 1979 list and attempted to identify any bugs that might be in the system. When we publish the rules and regs in final, many of those bugs should be worked out.

We believe it is a thorough and equitable system, one which will clearly indicate to both the Indian community and the Congress the greatest need and the possible time line for meeting that need.

Mr. BLOUIN. Would you prefer that Mr. Zuni make his comments now, if he has any? We are under the impression that you may have a statement.

Mr. ZUNI. Yes, I do, Mr. Chairman. I do not have a prepared statement.

First of all, I would like to impress upon your committee that the Office of Administration is not concerned with the priorities of the education, selecting the priorities of the education facilities.

We are primarily concerned with the construction of facilities after the priorities are determined. Primarily, we are concerned with construction management, and I think that this is obviously why the Office of Indian Education will have to determine the educational needs, and these needs, as we all know, change from time to time. Priorities shift and change.

If there appears to be any inconsistency in our priorities system, it is because of the response of the Bureau, the Office of Administration to the changes that are taking place.

I will be glad, and my staff will be very happy, to respond to any questions you might have regarding the management of construction.

Mr. BLOUIN. Thank you.

Mr. Shea?

Mr. SHEA. Thank you, Mr. Chairman.

I appreciate the opportunity to address this committee on the General Services Administration's present agreement with the Bureau of Indian Affairs on the review of their school construction program. I have with me Chris Law, the Acting Assistant Commissioner for Construction. On July 20, 1977, the Administrator of General Services and the Secretary of the Interior entered into a memorandum of understanding and agreement to provide a review and recommendations on the planning, design, construction and maintenance of school facilities within the Bureau of Indian Affairs.

In accordance with that agreement, a review team of operational managers was assembled and has been performing the review and inspection of BIA programs at various locations throughout the country.

Members of this team, in accordance with the agreement, have completed the field review process and have returned to Washington. They are now compiling their findings for the preparation of a report which will be delivered to the Secretary of the Interior on October 15, 1977.

At this early stage, it would be premature to comment in-depth on any aspect of the BIA program. However, it is our understanding that the committee desired at least a statement on the BIA new 5-year construction presentation which is under consideration.

The proposed program has been given only a preliminary review by GSA as it was in the conceptual stage while the GSA study was under way. Our brief review does indicate that the BIA under this new 5-year projected basis is on the right track toward identifying and planning a new construction program that will more readily assist in assigning priorities to and funding projects.

We further concur in their request to fund projects for both the design and construction cycle at one time. Up until the late 1960's, GSA used a two-step funding cycle for design and construction which, like the BIA, created a significant delay and an unmanageable schedule for project completion.

The one-step funding for GSA projects now used has been a great tool in reducing project cost and delivery time. We are confident it could provide the BIA with the same results.

As stated earlier, our review team is still in the early stages of developing recommendations concerning BIA operations. However, we are very conscious of the importance of this program and are working on a comprehensive report which will include full consideration of the 5-year construction program.

This concludes my prepared statement, Mr. Chairman. I would be glad to answer any questions you or the other members of the subcommittee may have.

Mr. BLOUIN. Thank you very much. We appreciate it. We can start with Mr. Demmert.

Just a general question. Could you explain for the Subcommittee how the new prioritizing system works, also, you could give us some examples, if possible, in explanation.

Mr. DEMMERT. The system itself is based on two factors—the extent that Indian children are unhoused and the physical condition and adequacy of the existing school facilities.

We then have points that are assigned to a number of criteria, and in the final analysis, we add those points up and arrive at a score. The score itself is then compiled nationally, and we have a national ranking, if you like.

Mr. **Blouin**. Excuse me a minute, so I can further understand this. Is this prioritizing done on a national basis or by region of the country?

Mr. **Demmert**. The individual assessment is done locally.

Mr. **Blouin**. The actual collection of information is done on a site by site basis?

Mr. **Demmert**. Yes.

Mr. **Blouin**. The prioritizing?

Mr. **Demmert**. That happens automatically; as a result of the system, we have percent of students in the school, times weighted factors, which gives us the score. Then we add the score up at the end. Then that gives us the national ranking of that school.

Mr. **Blouin**. So, in effect, you would be prioritizing the need in Navajo with the need in Hopi as opposed to comparing the southwest to southwest, Dakotas to Dakotas, and so on?

Mr. **Demmert**. That is correct.

Mr. **Blouin**. You do prioritize on a whole national basis?

Mr. **Demmert**. Right. Even though it is prioritized on a nationa basis, it also gives us the priority for that State, that reservation, or that region of the country. The system automatically allows you to draw that information from the total list.

Mr. **Blouin**. Can you give a couple of examples?

Mr. **Demmert**. For example, we have Shaktoolik Elementary School in Alaska. The school has about 555 points. We have another school, Chemawa Boarding School in Oregon. Chemawa, if I remember correctly, was at about 400-and-something.

And then we have another school, let's take Hopi, that was right within that range or a little lower than Chemawa. Three different parts of the country, and each of them, as they were scored, came up with a comprehensive score that could be compared to not only other parts of the country, but schools in that particular part of the country.

Let me go down the list. Shaktoolik, 555; Red Rock Community School, 555; Hopi, 455. Then we go down to Bull Head Day School, 355 points. Then we just pull the points together and rank them nationally.

If we want to rank them by area or by State, we would just take the schools within that area, within that State using the same point system, and just rank them.

Mr. **Blouin**. When it comes to your request for funding under this prioritizing plan, are you just going to draw a line under the top so many priority projects and request funding on those, or would your request be based on so many for each region? How would that work?

Mr. **Demmert**. Under the present system that we are using right now for 1979, what we do is look at our budget allowance by the department, and they, of course, get theirs from OMB, and we look at the allowance for construction, look at our list, and we will go down that far and say, all right, if they authorize us a budget ceiling, the way the system works, they give us an 85 percent current level, 110 percent at the current level, so we know. In 1977, we had about $35 million; in 1978, it was dropped to $9 million.

So in this instance, if we use last year's current level, our budget for 1979 at the current level would be $9 million, then we go to 85 percent of that, so we are lower than that. Then they would ask us how many we would fund at 110 percent.

Mr. **Blouin**. Let me back up and go at it from a different angle, I am not sure I got my question through.

At some point you have to piece together a request for funds to be presented to Congressman Yates' subcommittee?

Mr. **Demmert**. Right.

Mr. **Blouin**. Is that request based on a realistic funding assumption for so many priorities? You look at the realities of the administration budget; you look at the limitations that OMB puts you through; and you look at the realities of the make-up of that subcommittee and so on, and you put forth what you can put forth, limited to what you think you can conceivably get out of them.

What goes into that thinking? Do you say, if we fund the first 20 priorities we will need $4 million, if we fund the first 30 we will need $5 million?

Mr. **Demmert**. No. We are limited in our response. The ceiling is set in the area of construction, and that ceiling is 85 percent of the current level, or 110 percent of that level.

Mr. **Blouin**. By current level, the current level of the total cost of all the priorities that were funded?

Mr. **Demmert**. The budget we are now operating under.

Mr. **Blouin**. You are limited, in next year's request, to 85 percent of this year's funding level?

Mr. **Demmert**. Three different levels, 85 percent of this year's level, this year's level, and 110 percent of this year's level.

Mr. **Blouin**. You have to put down in writing to them the three alternative proposals?

Mr. **Demmert**. Yes.

Mr. **Blouin**. A cut, a hold, and a moderate growth?

Mr. **Demmert**. Right.

Mr. **Blouin**. All right.

In all three of those, where do you select your priorities for funding requests from?

Mr. **Demmert**. We go to our master list and start with number one and work right down the list.

Mr. **Blouin**. You add them up cumulatively?

Mr. **Demmert**. Right.

Mr. **Blouin**. So it is conceivable—I have no idea what the breakdown is; I have not looked at it. It is conceivable that the top 20 might take up the total appropriation and those top 20 may all be from one region of the country?

Mr. **Demmert**. That is possible.

Mr. **Blouin**. Do you think that is achievable, that kind of a priority plan? That varies considerably from what you outlined.

Mr. **Demmert**. The recommendation we have made orally, and we have discussed internally, is we have discussed a 10-year plan. Look at our total construction list and attempt to develop a plan for meeting that backlog over a 10-year period of time. So if we have a backlog, in this instance, of $300 million, that would mean a minimum of $30 million a year to meet that backlog.

We would meet that construction need with in a 10-year period of time.

Mr. Blouin. You would still be building, then, or meeting that need, based on the priority list?

Mr. Demmert. That is correct.

Mr. Blouin. It is still possible that one particular area will be taken care of sooner than another particular area?

Mr. Demmert. Yes. The reason for that is that we are looking at the need for the particular school, regardless of where it is located, within the bureau system rather than needs of schools within the various areas.

Mr. Blouin. I have not had a chance to look over this schedule. I assume that is the results of your first priorities?

Mr. Demmert. This is a result of work that Mr. Zuni's office did in attempting to try out a building plan for the schools that are identified there and tie that to amounts of money.

Mr. Blouin. In the first column, it lists the school project name and the second, that is the priority listing?

Mr. Demmert. The bottom half is the current priority listing, starting with Shaktoolik.

Mr. Blouin. What is the top half?

Mr. Demmert. The top half is a list of all of the projects.

Mr. Blouin. Ones you are locked into now?

Mr. Demmert. Not necessarily locked into, but ones that have been identified, either by congressional add-on, or by a Bureau request, and that we either have money for or have obligated money for.

Mr. Blouin. These are ongoing projects?

Mr. Demmert. Right.

Mr. Blouin. That you intend to complete?

Mr. Demmert. When they fall into the existing priority system, yes.

Mr. Blouin. I do not understand what you are saying. If one of your projects up here—you might be halfway through the construction phase?

Mr. Demmert. Then we complete it.

Mr. Blouin. What if you have just broken ground?

Mr. Demmert. Then we complete it.

Mr. Blouin. What if you have just let the contract?

Mr. Demmert. Then we complete it.

Mr. Blouin. When do you cut it off?

Mr. Demmert. If it were a project that was designed, or that we have moneys for the design, we weighed that need, the need of this school, against the needs of the schools on this priority list and have elected to go with those schools that have a greater need.

For example——

[Pause.]

Mr. Blouin. Do I understand this correctly? The first 11 priorities at the top of the sheet——

Mr. Demmert. One through fourteen.

Mr. Blouin. One through fourteen.

Mr. Demmert. One through twenty-three, actually.

Mr. Blouin. Let me finish my question.

One through eleven are the priorities enumerated in the legislation by the committee. Is that right? By the Yates committee?

Mr. DEMMERT. These have been add-ons by Congress, yes, in the order they were added on.

Mr. BLOUIN. In the parentheses next to them is your priority number, as you would apply, under the bottom half?

Mr. DEMMERT. The new system, that is correct.

Mr. BLOUIN. How about the ones, say No. 4 on the priorities list; that has no parentheses. Does that mean it has no priorities?

Mr. DEMMERT. It was previously committed; that, we are to finish.

Mr. BLOUIN. You are into it?

Mr. DEMMERT. We are into it, and we are going to finish it.

Mr. BLOUIN. Are there safety valves in here, barring congressional rearrangements of your priorities, to see to it that—the chief complaint that we have heard, for instance, is about wild fluctuations in priorities from year to year. We have run into it in the field in an incredible number of situations where there is one this year, if you will just wait until next year, and they wind up 35th.

Mr. DEMMERT. In the past, the prioritizing system in the Bureau has been very informal by area, and then those lists are pulled together and compiled.

Mr. BLOUIN. Informal. Is that the word you used?

Mr. DEMMERT. Informal, and compiled at the national level and have been very subject to political pressures, both internally and externally. This system would not allow that flexibility.

The Commissioner and the Secretary of the Department once these final rules and regulations are published, could not make any adjustments, that could only be done by Congress, because the rules and regulations would have the force of law.

Mr. BLOUIN. I am going to ask you a couple of other questions about Shaktoolik. No. 1, on our recent visit there in August, with the skepticism that prevails there about these ratings, they are convinced that another village in that area has their school, physically constructed for another village of students.

Do you think that those kinds of attitudes that have prevailed all over the country are so well set that you are going to have an impossible time selling this kind of prioritizing program, or has there been a positive response?

Mr. DEMMERT. There has been a fairly positive response from the field concerning a priority system that cannot be manipulated. The system itself will be reviewed annually so that if we get down to a school and authorize money, or have money authorized by Congress to build that school, we have committed ourselves to build it, and then we start the next year with those schools that we did not reach, reevaluate the priority list annually, and it is possible that there will be some slight adjustment. But I anticipate only slight adjustment if we have done our work well in analyzing the need originally.

Mr. BLOUIN. How many projects are on your total priority list? Assuming BIA had unlimited amounts of funds available?

Mr. DEMMERT. In 1979, we have 31 projects totalling about $300 million. Now, that does not include the list——

Mr. BLOUIN. You have 31 on the list, 31 projects? That is total; every one in the country. There are no other projects that are not on this list. Is that correct?

Mr. Demmert. There are other projects that are planning to submit applications. The projects on our priority list, starting with Shaktoolik, have all submitted applications and we have not received money for any of those projects.

There are some projects we have money for that are not on this list, because we are already committed to building them, and they are primarily above Shaktoolik on this 5-year construction schedule.

Mr. Blouin. They would have a higher priority, or above the line?

Mr. Demmert. We have committed to build them. In almost all cases we have the money to complete that particular portion.

The exception for that is if we only have money for design. If we only have money for design we are re-evaluating the need of the school against the new system. If they fall at the top of the new system, we will go ahead and design. If they fall near the bottom of the new system, or are more than 2 years away from the new system, we will hold off until we anticipate money in a 2-year period. If we design with no chance to build within 2 to 3 years then we would have to redesign 5 to 10 years later.

We estimate another $200 million in requests coming in next year, at minimum.

Mr. Blouin. These are projects on here that have plans up front, that have requests up front, and you have prioritized that?

Mr. Demmert. Yes.

Mr. Blouin. All right.

Can you give me a number? There are 31 total in this kind of classification. How many other kinds of projects are there that have not gotten to this stage yet and have not gotten to the land development?

Mr. Demmert. Have not submitted an application?

Mr. Blouin. Have not submitted an application, as such, that you know of.

Mr. Demmert. Another 30 to 40 schools.

Mr. Blouin. Thirty to forty schools?

Mr. Demmert. Yes, estimated. But that is a good estimate, based on the old priority system and the fact that to test this system we attempted to pick the half that were in greatest need.

Mr. Blouin. If I am following your 5-year construction schedule here, even though Shaktoolik is number one, its first estimated appropriation would not come until fiscal year 1982, which would be $150,000; in fiscal year 1983, we have $2,350,000.

Mr. Demmert. That is true. If we took care of everything above it.

Mr. Blouin. You are pretty locked in to everything above it?

Mr. Demmert. Not necessarily. There are two or three schools above it, below Shaktoolik on the new list, which we are not really locked into like Laguna, No. 3 on the list, but No. 17 on the new priority list.

Mr. Blouin. As I understood what you were saying earlier, I thought that was a congressionally mandated one?

Mr. Demmert. It is a congressional add-on for design only.

Mr. Blouin. Where is Laguna on the list?

Mr. Demmert. No. 3 on the list.

Mr. Blouin. Physically, in the country, geographically?

Mr. Demmert. New Mexico; 40 miles west of Albuquerque in New Mexico.

Mr. **Blouin**. If you could shake the basket the way you wanted, based on priorities, and eliminate the preferential treatment, and so on, what would that do to step up funding to the real priority list on the bottom half of this page?

Mr. **Demmert**. We would need—all right. Assuming we are successful in our request for a supplemental in 1978 to make up the difference between the $35 million and the $9 million we received or did not get, we have four projects that we would complete: Haskell Junior College, some kindergartens, Little Wound High School, and Tuba City Middle School. We would then be ready to start with Shaktoolik.

Mr. **Blouin**. Haskell Junior College, Tuba City, what else?

Mr. **Demmert**. Little Wound High School.

Mr. **Blouin**. That would move it up to 3 years?

Mr. **Demmert**. Yes.

Mr. **Blouin**. At least.

Mr. **Demmert**. Right. If we got $30 million, if we got a supplemental request for 1978, we would be able to start with Shaktoolik probably in 1979. It would take about $30 million to do that.

Mr. **Blouin**. Are there projects now where funds are available, but where the funds are being held up pending comparison of that project to your priority list?

Mr. **Demmert**. No.

Mr. **Blouin**. Nothing that falls into that category now?

Mr. **Demmert**. No, not as far as we are concerned. The only projects that have been held up are those projects that we have not had enough money to complete.

Mr. **Blouin**. You have not started?

Mr. **Demmert**. In some cases we have started, and phased them. If we had five buildings to build originally when we came to Congress, for us to build those five facilities, by the time we got them started and built and the bids were in, we ended up with enough money to only build three or four. We have to wait for another funding cycle to get enough money to complete that facility.

Mr. **Blouin**. Can you give me an example on that? An example specifically of the school?

Mr. **Demmert**. Haskell Junior College.

Mr. **Blouin**. Any K through 12 examples?

Mr. **Demmert**. K through 12, we have Chemawa as an example. That is a high school.

Mr. **Blouin**. I would like to get back to Shaktoolik for a minute. Is that school functioning this year? Is it open?

Mr. **Demmert**. As far as we know, it is open, yes.

Mr. **Blouin**. When we were there, the parents said that they were not going to put their kids in that school, that it was unsafe, unhealthy, and they plain were not going to put them into those trailers.

Mr. **Demmert**. My understanding is the area director made some improvements on the school.

Mr. **Blouin**. We saw the improvements.

Mr. **Demmert**. You saw the improvements? I have not heard anything to the contrary. This is September 21. I usually hear before the fall, like within a day or two.

Mr. **Blouin**. Maybe he is afraid to tell you.

What kind of process do you have within BIA to take care temporarily of the kinds of situations that exist in Shaktoolik where they obviously have a very unacceptable, temporary, mobile structure set up from the village and where they are probably looking 6 years along down the road until a new facility is available to them. Do we leave those people in that kind of a facility for that many years, or is it some kind of a process?

I understand the mammoth construction costs in Alaska, the problems of putting anything of a temporary nature that has any quality at all, but it would seem to me that there would have to be something better. I even looked at the school they left, and I am not sure that was safe even to walk through. It is hard to believe that what they have now is better than what they left. What they have now would not be accepted anywhere in the country by anybody's safety standards or school standards in any State.

Mr. Demmert. Unfortunately, the only option we have is going for a supplemental. We would have to go in for a supplemental to provide temporary facilities until we could build the school, and we have used temporary facilities in Chemawa, we have used temporary facilities in Alaska and in other parts of the country and, in some instances, those temporary facilities can be used for 1 or 2 years. In other instances, they are just a stop-gap measure.

One of the things we are recommending internally, and both Mr. Zuni and I agree upon, is that where we have emergency situations, we talk about something other than the priority list and the 5- or 10-year plan. We talk about an emergency situation where we go in for a supplemental outside of this list and build that school.

Mr. Blouin. Would you consider Shaktoolik an emergency?

Mr. Demmert. It is No. 1 on our list; I would consider it an emergency, yes. Right now, we do not have a system that addresses emergency situations.

Mr. Blouin. Have you ever had one?

Mr. Demmert. No. Well, yes. The system before only addressed emergencies up to this point.

Mr. Blouin. Ignore the priority altogether. If Shaktoolik is an emergency, is there a system to cover that?

Mr. Demmert. Not unless—you see, part of the problem is all of the projects—we have no new projects through 1978—are all completions.

Shaktoolik is the first new project that we have got, other than the designs that are further down the list.

Mr. Blouin. Are you planning a supplemental request this year?

Mr. Demmert. Only to make up the money that was lost in 1978. Out of the $30 million request, we only got $9 million for construction. We are attempting to make that up so that we can get started on our new list.

Mr. Zuni would like to make a comment.

Mr. Zuni. Mr. Chairman, I am sure that the committee is concerned about what appears to be a chaotic method of determining school construction priorities in the Bureau. It is obvious that there are problems and they would not be as great as they are if we were in complete control of determining the priorities, if we did not let outside influences dictate to us what our priorities should be.

Mr. Blouin. Are you referring to a governing body in the three branch system of government that we have?

Mr. Zuni. I am referring to the democratic system under which we operate.

Mr. **Blouin**. We are talking about the same branch of government.

Mr. **Zuni**. It is obvious that if we are to control what appears to be this chaotic situation, we should have the intestinal fortitude to develop a system whereby we establish a system that we can stick by in the face of all other interest groups—and I am not condemning them. They have a right to have an interest in the education of the indigenous population of this country.

Unfortunately, there is not enough money to meet all of the priorities as those vested interest groups advance them. We have become a victim to the system, and until we can be able to assume control of the moneys that are appropriated to us, then we will not be able to resolve this problem.

To be more specific, you raised a question about meeting the emergencies. Under the old priority system, this was a No. 1 criterion whereby we would deviate from our priority system in order to meet a school situation where a building burned down, destroyed by a river, by a flood, or because the building was in such a state of repair that it was harming the health and the safety of the Indian youngsters.

The attempt that we are working on now is to develop a priority system whereby we hope we can stick with our funds and be able to defend it all the way through, in spite of some congressional interests, in spite of some individual Congressmen and Senators.

Mr. **Blouin**. One of the problems you have had in the past was the encouragement of tribes by area offices, in many instances, to bypass the central office and go to the Congress. I assume that is going to continue. I assume that you would always have petition, if you will, of one segment directly to the Congress.

I would not want a system—and I do not think you would—that would prohibit that right. But at the same time, I worry about the futility of piecing together a priority system that, if left intact, will work, without some assurances that it is going to be left intact. I am sure you have thought that through. What kind of response have you been getting from various sources in that regard?

I mentioned the tribal communities around the country. You say you have not received any real antagonistic responses? Generally, they have been positive responses. What about from the other areas? What kinds of responses have you been getting?

Mr. **Demmert**. In general, the response to the concept that we are working on has been very positive, not only from the Indian community and internally administratively, but to Members of the House, particularly those who have indicated to us in direct conversation that if we can develop a system that is defensible, it would be to our mutual advantage to follow it.

And my sense is that if this withstands the contemporary or current investigations and scrutiny that it is going to undergo over the next few months, that many of the problems that the Bureau has encountered in the past, either internally or externally, will be overcome. Because once it is published in the Federal Register, the administration has no choice. We have to follow it and support the system.

Mr. **Blouin**. I can assure you right now that at first blush this kind of priority system seems to me to make a heck of a lot of sense and it is defensible. I think it will work. I commend BIA for its efforts in this.

My concern revolves around the high priority emergency situations. Shaktoolik is not the only one that we have seen around the country. What do you do in the 5- or 6- or 7- or 8-year gap between now and then to deliver something of an acceptable facility to these people?

Mr. DEMMERT. For those that we have identified as an emergency for whatever reason, our plan is, at the present time, to go for a supplemental to meet that need immediately. We do have flexibility to use whatever moneys that are in, as I understand it, in Interior, to meet an emergency situation where the building has burned down or was wiped out by a river, or destroyed by fire or whatever.

The problem is in the past that we used the money from the priority list to make up the difference, and that creates a substantial amount of chaos to any priority list.

Mr. BLOUIN. Which would have a higher rating in terms of emergency request, a situation like Shatoolik or a situation like Bethel Region where there was the real concern—I am not sure what the result was—but real concern about the village burning down, the dormitories or the teacher facilities?

Mr. DEMMERT. To get a new one?

Mr. BLOUIN. What was the completion of that? Did they ever burn it down?

Mr. DEMMERT. In one instance, there is nothing there, and in the other, since there is something there.

Mr. BLOUIN. The complete absence of something would give a higher priority?

Mr. DEMMERT. Yes. If I had my own way, I would attempt to build both of the facilities at the same time.

Mr. BLOUIN. Is Shaktoolik going to be in your supplemental request?

Mr. DEMMERT. Shaktoolik is not going to be in the supplemental request. We only had enough money in the 1978 budget to complete those facilities that we are already working on. We had no money in the 1978 requests for new starts like Shaktoolik, or for new starts or other emergencies.

Mr. BLOUIN. Which has the higher priority emergencywise over Shaktoolik?

Mr. DEMMERT. None. At this point, it has not been declared an emergency by the area director in Alaska.

Mr. BLOUIN. Do you have to wait for that declaration?

Mr. DEMMERT. We have to listen to his advice and guidance, yes. There are some exceptions to that, of course.

Mr. BLOUIN. I will yield to Mr. Quie.

Mr. QUIE. Just a few questions. On the priority list that you have here, it is my understanding that it will be in effect when the regulations are finalized?

Mr. DEMMERT. We have used the system for 1979 and walked our way through it. It is in effect. It does not have the force of law, and will not have the force of law, until the rules and regulations get published. We hope to have them published by the end of November.

Mr. QUIE. It will just be a guideline for you in 1979?

Mr. DEMMERT. That is right, but it is a guideline we are following to the letter.

Mr. QUIE. What is the $9 million this year going to do? Your estimate—this table—is this table laid out with the assumption that $9 million is all you are going to get?

Mr. Demmert. No. Let me doublecheck that. No school projects with the $9 million.

Mr. Quie. No school projects?

Mr. Demmert. None at all.

Mr. Quie. This table is assuming that $9 million is all you will be receiving?

Mr. Demmert. That is correct.

Mr. Quie. I imagine you made other plans. What was your budget request?

Mr. Demmert. As it finally went forward. $30 million for education.

Mr. Quie. You are $21 million short. What happened? Those were the school projects?

Mr. Demmert. Right.

Mr. Quie. Are they now listed in your 1979 priority list?

Mr. Demmert. No. At this point we are planning on going forward with the 1978 request, if we go forward. Then we will hold the line with the 1979 list.

If they do not end up funded, or if we end up not going forward, then we have to readjust our 1979 list to include those projects.

Mr. Quie. In other words, the $29,800,000 you have as your total at the bottom of the chart for fiscal year 1979 will change?

Mr. Demmert. That is just a chart. We have not established our budget for 1979 yet internally.

Mr. Quie. I assume, then, that if there was a $30 million base per year, this is the way the construction would go?

Mr. Demmert. Yes. Right.

Mr. Quie. Then you have the other charts for $40 million and $50 million?

Mr. Demmert. That is correct.

Mr. Quie. Let's assume that $30 million is your budget for fiscal year 1979. You do not get the $21 million in the first year 1978 supplemental. What will that do to fiscal year 1979 then?

Mr. Demmert. We would start with what we have got here but the time frame would be different. We would start with $30 million. We are hoping, assuming, that we will start with $30 million, at minimum. If we start with less than that, then we would have to readjust this time line.

Mr. Quie. I understand from the committee's trip to Alaska that you do not necessarily meet the state or fire code in your building projects. What are you doing about that? It seems to me that anything you do should meet the State code?

Mr. Demmert. Shaktoolik should have met, by the opening of school, the minimum State fire code.

Mr. Blouin. I cannot believe there is any way that that facility would even pass the code for a garage. They have space heaters that heat it. Half of the windows do not work. The plumbing is a word that does not exist in that area.

Mr. Quie. One of the problems was how the kids would get out if there was a fire?

Mr. Blouin. Snow had piled up and closed the emergency exits up there and there is no way around that unless you put a full-time crew shoveling. There was one way out, and that was down a narrow corridor that had kitchen facilities, cooking facilities on both sides, which is sort of the logical place that a fire would start if it does not start in the heater. I did not notice any emergency exits other than the snowbound ones. I do not think there was even a sprinkling system there.

Mr. **Demmert**. We do not have sprinkling systems in many parts of Alaska, especially in remote areas like that, because of the water situation. And if the heat ever went off, as it does on occasion, the whole thing would freeze up.

Mr. **Quie**. Can you tell us how they did meet them up there?

Mr. **Demmert**. I asked Bill Ott whether he had any recent information on what was done to meet those requirements, but we can get them and let you know exactly what they did.

Mr. **Blouin**. We would appreciate that.

Mr. **Quie**. Have you made any plans for meeting 504 regulations?

Mr. **Demmert**. We are in the process of doing a survey to meet that requirement right now, a survey of need to meet that requirement.

Mr. **Quie**. I would like to know what it would cost you to bring all of your buildings into compliance with the 504 regulations, and then what you would add to the cost of your projected schedule of new buildings to meet 504?

Mr. **Demmert**. Our new priority list has been designed, theoretically, to meet those requirements. The facilities that we have out there, in some cases would need to be adjusted to meet those requirements. Anything that is now in design and planning for future construction meets those requirements.

Mr. **Quie**. So all of this projection is to meet those requirements?

Mr. **Demmert**. Yes.

Mr. **Quie**. That is all, Mr. Chairman.

Mr. **Blouin**. Mr. Shea, is it the policy of GSA to try to meet State standards on construction nationwide generally?

Mr. **Shea**. Yes, sir.

Mr. **Blouin**. Will that be your policy supervising the construction of the BIA facilities?

Mr. **Shea**. Certainly. We are not involved in the supervision, sir. What we are doing now again is a review of how they do it, the planning, the design, the structure, the maintenance and review of their system.

Mr. **Blouin**. In terms of recommendations to them?

Mr. **Shea**. Certainly.

Mr. **Blouin**. In terms of the response to those recommendations, as I understand it, the agreement that was laid out in the conference report language was somewhat of a supervisor role, at least in terms of consultants.

If I understand the concerns expressed, and expressed comments of members of that subcommittee, they wanted it to be more than just technical assistance. Maybe you could try to explain for us in a more detailed fashion how you think this relationship works, if you do not want to call it supervisory.

Mr. **Law**. Basically our agreement with the Bureau, if you will review on a basis of your action or activities, we have no real plans or any commitment that was ever made that we would actually get involved in their direct conception.

Mr. **Blouin**. In the colloquy that Mr. Quie and Mr. Yates, and I had on the floor of the House over the supervisory section of the conference report, it was our unanimous understanding that what the term "supervision" meant was that GSA would be a coordinating agent and a consultation resource.

Mr. LAW. That one, yes, very definitely.

Mr. BLOUIN. How would you define "coordinating agent?"

Mr. LAW. At this point in time we have been, as Mr. Shea indicated, reviewing their procedures to, in effect, at what potentially could be done to smooth and improve the process time and cost. The gentleman has just described one of the key factors that we believe, that is the planning and scheduling.

The other areas we would be making recommendations to them based on our finding, and in turn, we would be back checking with them to the accomplishment, if you will, of the agreed upon accepted recommendations. That is my understanding of what the Deputy Administrator Griffin had in the discussion with Congressman Yates right at the beginning of our study.

In turn, or in addition, we have had discussions with Mr. Zuni insofar as they need or desire any technical assistance; being as you will in the engineering or technical field, we will be happy to provide that as needed. That was almost a sideline then, if you will, then a direct part of the supervision.

Mr. BLOUIN. All right. I think we have the same understanding.

Mr. Zuni, could you tell us how many projects have been started in school construction that are not completed?

Mr. ZUNI. Twenty-three.

Mr. BLOUIN. Can you give us a cost estimate to finish those projects over a reasonable period of time?

Mr. ZUNI. I am not in a position to add all of the figures up. I am told it is in excess of $100 million.

Mr. BLOUIN. Could you supply this subcommittee with a more specific figure than that?

[The information referred to above follows:]

1. Project cost to complete 23 initiated projects identified in the Five Year Construction Plan.

1.	Fort Totten School, North Dakota	$ 13,000,000
2.	Chemawa Boarding School, Oregon	22,000,000[1]
3.	Laguna Middle School, New Mexico	3,200,000
4.	Fort Yates High School, North Dakota	4,000,000
5.	Jemez School, New Mexico	500,000
6.	Santa Rosa Boarding School, Arizona	4,600,000
7.	San Simon School, Arizona	4,250,000
8.	Little Wound School, South Dakota	6,000,000
9.	Hopi High School, Arizona	14,800,000[2]
10.	Bullhead School, South Dakota	3,040,000[3]
11.	Little Eagle School, South Dakota	3,040,000[4]
12.	Turtle Mountain Community School, North Dakota	14,500,000
13.	Lower Brule School, South Dakota	4,800,000
14.	Haskell Indian Junior College, Kansas	
	Gymnasium	3,500,000
	Dormitory	2,400,000
	Other	5,300,000
	Other	5,300,000
	Other	5,300,000
15.	Tuba City Elementary Boarding School, Arizona	16,302,000[5]
16.	Kindergartens - Bureauwide	2,300,000[6]
17.	American Horse School, South Dakota	5,000,000
18.	Northern Cheyenne High School, Montana	6,000,000
19.	Supai School, Arizona	2,330,000[7]
20.	Salt River School, Arizona	3,500,000
21.	Busby Gymnasium, Montana	1,500,000

22. Afachkee School, Florida	1,000,000
23. Napakiak School, Alaska	2,000,000
	$159,462,000

1/ $10,000,000 Available

2/ 438,840 "

3/ 40,000 "

4/ 40,000 "

5/ 145,928 "

6/ 1,300,000 "

7/ 80,000 "

$12,047,680

2. Phase I design of the Hopi High School in the amount of $438,840 will be obligated in the second quarter of FY 1978. Contract negotiations are currently underway with the Hopi Tribe.

3. Additional copies of the proposed Five Year Plan listing the 23 projects are not available. Attached are copies of the revised Five Year Plan based on the new education priority system.

Mr. ZUNI. Yes, we will.

Mr. BLOUIN. How many projects beyond those 23 have had design work done on them?

Mr. ZUNI. None.

Mr. BLOUIN. When you say a project started, you say design work—started means design work?

Mr. DEMMERT. In the instance above the line. There are some exceptions to that. We have some money for design that we have not spent or it could be that we have some designed, some facilities that have been designed, but we are not planning to go forward with them because there was greater need by Shaktoolik, and our intent is to hold that design work until we move into the new system.

Mr. BLOUIN. Of all the designs that are completed, how many of them have not actually started construction?

[Pause.]

Mr. DEMMERT. About five.

Mr. BLOUIN. They have design work done but have not started actual construction?

Mr. DEMMERT. That is correct.

Mr. BLOUIN. What is the other design work? Was it recently, or in the last year or two?

Mr. DEMMERT. No. The newest is probably 3 years old.

Mr. BLOUIN. The oldest is 3 years old? The 3-year-olds, are they on track for early construction?

Mr. DEMMERT. No, they are down the list in priority. We are not planning to build them until we take care of some higher priorities.

Mr. BLOUIN. What are the odds on those older design projects having to have new design work done before construction, if they are going to be deprioritized? How old can a design get before you have to redesign it?

Mr. OTT. I do not think that that can be answered. It relates to the educational need. There is just no pat answer you can give to that kind of a question.

Mr. DEMMERT. Some of them would have to be redesigned to meet 504, or at least some modifications to meet 504 requirements. We really have not moved forward on them, because we are not planning on building them at this point.

Mr. BLOUIN. The problem, though, if you accomplish your goal of bringing all the facets together, will pretty much disappear altogether, will it not?

Mr. DEMMERT. That is correct.

Mr. BLOUIN. Could you, Mr. Zuni or Mr. Ott, give us a rundown on the 5-year schedule here from the standpoint of design and construction? Is it possible to go into that for us?

Mr. OTT. If you will permit me to move closer to the table——

Mr. BLOUIN. We are going to have to run for a vote at this time. I will be back but you can continue for the record.

When we finish this question, we will end this panel, and we will start the next witness when I return.

Mr. OTT. I would prefer to wait.

[A brief recess was taken.]

Mr. BLOUIN. There should not be many more interruptions. We are never quite sure of that.

I understand that you wanted to wait so, Mr. Ott, go right ahead.

Mr. OTT. Mr. Chairman, thank you. I am Bill Ott, Assistant Director for Support Services, Bureau of Indian Affairs.

Mr. Chairman, apparently we have partly succeeded with our 5-year construction schedule in focusing some attention on some of the problems that we feel are inherent in the Bureau's construction program.

I would like to make a few comments, or disclaimers, if you will, on the chart itself, and then identify for you the problems that we think probably merit your consideration.

First of all, the chart itself. It is not a particular proposal. It does not reflect what you will see in the 1979 budget. It does not necessarily reflect the way that we might propose to implement the school construction in the Bureau of Indian Affairs.

That is to say, it does not reflect necessarily the priority of the sequence of the projects that we might like to perform, either as a new start, or completion.

What we have attempted to do on this chart is to chronologically lay out for the attention for both of the Bureau and more specifically in response to some questions by members of your staff, the impact of projects which have been initiated but unfunded to completion, plus the immediate projects that Mr. Demmert has referred to as being in his present priority system, the first 21 projects, if I recall.

What we would like to present to you really narrows down to a couple of considerations. The first is, we have initiated an awful lot of projects in partial phases, but we have not completed them, and in order to complete them, we are talking about a rather substantial sum of money, something on the order of, or in excess of $100 million.

Mr. BLOUIN. That is to complete what you have already dipped into?

Mr. OTT. What we have already initiated.

Mr. BLOUIN. You are talking about things that you are already into?

Mr. OTT. Things that we have initiated, and that is that money that has been appropriated, and we have expended money on those projects. The first 23 items, of course, on the chart. But we have made the very basic assumption that these projects, having been initiated, either by response to the Bureau's priority system or by congressional add-on, that the assumption should be made that the budgets were intended to be completed.

They are very basic assumptions, and we schedule on that basis.

The second point that I want to make in this regard is that the method of funding in the Bureau, including appropriation language, is to fund projects in phases. That creates a very significant problem for us because the commitment is only to the phase for which funds are appropriated that particular appropriations year.

I think Mr. Shea spoke to this point very clearly in his opening remarks. It presents a significant problem for us, and the philosophy of it is that it is very easy to initiate a project. Design funds are a very small sum, a very small portion, of the total construction costs of the project, so the philosophy of funding is very easy to initiate projects. It makes it extremely difficult to complete projects.

This schedule in itself was not intended to be a particular presentation or proposal to the Congress as to how the Bureau might propose to construct projects. What it simply attempted to do was to present to the Congress a listing of the projects in their chronological order, or their age order, their temporal order, and to attempt to reach a consensus as to what projects should be funded.

Where does the priority fit? Does the congressional add-on to the previously committed projects take a greater priority than Shaktoolik?

I represent, again, Mr. Chairman, the construction side of the BIA house. We have no particular say in the assessment of the educational need or the prioritization of that need, but we do have a problem from a construction-management standpoint, of trying to manage projects that are not totally committed. It is akin to being committed to go the first block down to the grocery store to get a loaf of bread. We never get there to get the loaf of bread; we are only committed for the first block.

Mr. **Blouin**. Where do you cut that off? Not totally committed? How much do you have to do before you are totally committed?

Mr. **Ott**. Fund the entire project; not necessarily fund it, I will stand corrected on that. A commitment to fund, or an authorization for, a complete project.

Mr. **Blouin**. In your opinion, BIA is not totally committed to a project until it is legally authorized for it in toto?

Mr. **Ott**. I do not know if I would use those words directly, Mr. Chairman. I think what I am saying to you is that the appropriations language requires us, or the method of appropriation requires us, to propose phases of construction planning, design structure generally in different years.

We would propose that the chair consider, or the Appropriations Committee consider, funding a project for design and construction. In that regard, had such techniques been used on the first 23 projects, we might well be better prepared to embark on a new priority system.

I believe that the purpose of this chart—and I am well aware that there is a great deal of concern about these projects which have been initiated, the first 23 projects. I think we have to resolve that. If we have limited funds in the next several fiscal years, do we complete projects or do we go to the next priority and make new initiatives, a new start, and is it for the total of the design and construction, or design only and will we change our mind next year about the construction?

These are the sorts of problems that have caused great anguish, I am sure, among Indian people who feel—and again, I am out of my depth because I am strictly in the construction phase, but I am fairly well-assured that Indian people who feel that they have managed to achieve an appropriation for design think there is a commitment there for the construction phase, but it is not there unless it is appropriated.

And these are some of the kinds of problems that we run into in construction.

I am not awfully sure that the Bureau of Indian Affairs has a construction problem. We are somewhat understaffed and we receive a fair amount of heat in regard to leaky roofs and that sort of thing. I am not sure that the Bureau has a construction problem.

Mr. **Blouin**. What would you define as the problem? Every time I get into the field, and the more I see, the more convinced I become that you do. Let us define problem.

When I see a building that is constructed, and has been in existence only a few years, with walls separating—not just normal settling, but separating to the point where doors will not open; where I see just total collapse of a facility, that is more than a lack of proper maintenance, but inferior construction from the very beginning. I think that is a problem.

Mr. OTT. We do not disagree with that. We certainly have our incidents where improper procedures may have been used, but I do not think I am referring to that kind of a problem. What I am referring to is this kind of problem that is on the schedule. The problems in here are ones that deal——

Mr. BLOUIN. The prioritizing of programs.

Mr. OTT. The prioritizing and the appropriation of funds.

Mr. BLOUIN. Do you say the BIA has no problem?

Mr. OTT. I think that the problems are beyond the control of the Bureau.

Mr. BLOUIN. The politics of the situation cause the problem?

Mr. OTT. I am suggesting very much that we have a change of appropriation language to permit one step funding of the design and construction phases of projects, and coupled with that, a plan so that the Congress knows when they add money, or change money, they can see the effect of it.

Those are the two points that I would like to bring to your attention.

Mr. BLOUIN. Let me ask you a question on something that you said at the beginning, that these priorities may not necessarily be the priority the BIA will even request, or the order of priorities that the BIA will request.

What kinds of things would interfere with this prioritizing, in terms of your request to the Congress?

Mr. OTT. I meant to indicate to you, Mr. Chairman, the first 23 projects are listed in their chronological age, Fort Totten being the first of these projects to have money appropriated for it.

That does not say that Mr. Demmert's educational priority might put it further down, if we listed it in terms of educational need. We needed some reference to put this back together.

Mr. BLOUIN. Who has the final say over that?

Mr. OTT. Mr. Demmert.

Mr. BLOUIN. If I understood Mr. Demmert, if this prioritizing system is used—and as I understand it, it is going to be used—this will be the priority which projects will be submitted below that line.

Mr. DEMMERT. That is correct.

Mr. BLOUIN. As much shuffling above that line that you can get away with in terms of the political realities of the situation, and the dollar commitments, the cost effectiveness. So, aside from that—is that what you are referring to in terms of the kinds of things that would interfere?

Mr. OTT. Yes. Not interfere.

Mr. BLOUIN. Rearrange.

Mr. OTT. This chart could well be rearranged to reflect whatever assessment is made in terms of priority, whether it be by Mr. Demmert solely, or by Mr. Demmert and the Congress, or whoever.

The point that we clearly want to show, however, is that the first 23 projects are not funded to completion. That, we want to show.

Mr. BLOUIN. It would take you a minimum of 6 years to clean them all up, assuming full funding?

Mr. DEMMERT. At a particular funding level, yes, at $30 to $40 million.

Mr. Blouin. I keep looking at the top page, the $30 million page. You would be darned happy to get that one, would you not?

Mr. Demmert. It would give us at least a hope.

Mr. Blouin. Considering last year's budget?

Mr. Demmert. Yes.

Mr. Blouin. It would be fiscal year 1982 before you even got into design work on your very top priorities, on a $30 million budget which is compared to what—what was this year's $8 million?

Mr. Demmert. $9 million.

If we were to clean up our 1978 budget recommendation, we could get to Shaktoolik in fiscal year 1979 with an additional $30 million.

Mr. Blouin. If you clean up——

Mr. Demmert. The 1978 priority list, as submitted.

Mr. Blouin. Explain what you mean by that—"if you are able to clean it up"?

Mr. Demmert. If we were able to get the money that we are looking for, for 1978, and complete an obligation to build those facilities, we would be able to move on our 1979 list, and not only complete Shaktoolik, but get down to an elementary—excuse me.

[Pause.]

We will be able to get down to Shaktoolik, but we will not be able to clean up all 23 projects that are above the list on the big chart.

Mr. Blouin. By clean up, you mean finish up what you are into; not start anything new?

Mr. Demmert. That is correct.

Mr. Blouin. Your funding above this line, as you begin new things this year and next year and so on down the line?

Mr. Demmert. Yes, but that is following the list as we have established the priorities, as we feel that they need to be completed.

Mr. Ott. Perhaps, as an example of that, if you look at Fort Totten School which chronologically has the first money put in for planning back in 1970, we are completing the design around the third quarter of fiscal 1978. If we proceed immediately into the construction of the Fort Totten School, we would require $9 million right there.

Mr. Blouin. You are talking about a No. 6 priority in that instance?

Mr. Ott. Yes.

Mr. Blouin. I am interested—maybe I need an explanation in terminology here. Take the Salt River School. Where is that located physically?

Mr. Demmert. Arizona.

Mr. Blouin. In fiscal 1978, you have the word "complete."

Mr. Ott. The design was completed several years ago.

Mr. Blouin. Is that right?

Mr. Demmert. Yes.

Mr. Blouin. You are to complete the design in fiscal 1978?

Mr. Ott. It was completed several years ago.

Mr. Blouin. What do you mean, complete?

Mr. Ott. The design is complete and it is ready for construction. The BIA could go out for construction.

Mr. Blouin. You are going to construct it in 1982?

Mr. Demmert. If we got the $30 million base, we could construct it in 1982. If we got money before then. we could construct it sooner.

Mr. Blouin. How does that get above the line for 1982 construction when it is rated No. 28 on your priority list?

Mr. **Demmert**. On our priority list it is rated 28 and we would not get to it until we funded the 27 schools above it, and that probably would be in 1984.

Mr. **Blouin**. But on your construction schedule in front of us here, which is your construction schedule, right?

Mr. **Demmert**. No.

Mr. **Blouin**. That is your construction schedule?

[The information follows:]

9/12/77

Construction
Design

SCHOOL CONSTRUCTION PROJECT PROJECTIONS BY F.Y.
BASED ON $30,000,000 FOR EACH F.Y.

-Equipment not included
-Cost estimates rounded to millions
[1] -Add-on to BIA appropriations
[2] -Prior year funding different criteria

STATE	PRIORITY	PROJECT	PRES. GRADE LEVEL	PRES. ENROLL-MENT	PROJ. GRADE LEVEL	PROJ. ENROLL-MENT	F.Y. 1979	F.Y. 1980	F.Y. 1981	F.Y. 1982	F.Y. 1983	F.Y. 1984	F.Y. 1985
		Committed Projects											
KS		[2] Haskell Junior College	13-14	892	13-14	1200	5,000,000	10,000,000					
		[2] Kindergartens					1,000,000						
		Equipment					1,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
		[2] Little Wound High Sch.	7-12	200	7-12	325	6,000,000						
		[2] Tuba City Middle Sch.	K-9	400	K-8	1040	5,400,000						
		New Commitments											
AK	1	Shaktoolik Elem.D/Sch.	K-8	34	K-8	35	DC4,000,000						
AZ	2	Red Rock Elem.D/Sch.	K-4	100	K-6	180	DC2,000,000						
SD	3	Allen Elem. D/School	K-8	154	K-9	300	C5,000,000						
OR	4	[1] Chemawa H.S. Boarding	9-12	193	9-12	600		C7,000,000					
NM	5	San Felipe Elem.D/Sch.	K-4	251	K-6	250		DC4,000,000					
ND	6	[1] Ft. Totten H.S. D/Sch.	K-12	543	K-12	920		C10,000,000					
MT	7	[2] Northern Cheyenne H.S.	9-12	0	9-12	360			C11,000,000				
AZ	8	Havasupai Elem.D/Sch.	K-6	31	K-8	85			DC4,000,000				
AZ	9	[1] Hopi Jr.-Sr. H.S.D/Sch.	7-12	0	7-12	861			D1,000,000	C15,000,000			
ND	10	[2] Turtle Mt. H.S. D/Sch.	9-12	592	9-12	850				C15,000,000			
NM	11	Alamo Elem. D/School	K-1	61	K-8	240					DC2,000,000		
NM	12	Taos Elem. D/School	K-8	178	K-8	210					DC3,000,000		
SD	13	[1] Bullhead Elem. D/Sch.	K-8	87	K-8	219					DC3,000,000		
AZ	14	[1] San Simon Day School	K-6	161	K-8	400					DC4,000,000		
SD	15	[1] Little Eagle E-D/Sch.	K-8	96	K-8	150					DC3,000,000		
NM	16	Santa Clara Elem.D/Sch.	K-6	116	K-6	180					DC2,000,000		
NM	17	[1] Laguna Jr. H. D/School	6-8	190	6-8	200					C2,000,000		
NM	18	Canoncito Elem. D/Sch.	K-8	131	K-8	245					DC3,000,000		
							29,400,000	33,000,000	28,000,000	32,000,000	30,000,000	See Totals on Pg. 2	

Construction
Design

SCHOOL CONSTRUCTION PROJECT PROJECTIONS BY F.Y.
BASED ON $30,000,000 FOR EACH F.Y.

Equipment not included
Cost estimates rounded to millions

Area	Priority	Project	Pres. Grade Level	Pres. Enroll-ment	Proj. Grade Level	Proj. Enroll-ment	F.Y. 1979	F.Y. 1980	F.Y. 1981	F.Y. 1982	F.Y. 1983	F.Y. 1984	F.Y. 1985
AZ	19	Pinon Elem. Bd. & Day School	K-8	268	K-8	450					DC4,000,000		
NM	20	Torreon Elem. School	K-6	72	K-6	175						DC2,000,000	
NM	21	Nenahnezad Elem. Boarding School	K-8	281	K-8	371						DC4,000,000	
AZ	22	Navajo Mountain Elem. School	K-6	28	K-6	200						DC3,000,000	
NV	23	Stewart Boarding H.S. Shops	9-12	505	9-12	505						DC2,000,000	
NM	24	Wingate Elem. Bd. School	1-8	591	1-8	646						DC1,000,000	C12,000,00
AZ	25	Moencopi Elem. Day School	K-6	61	K-8	200						DC3,000,000	
AZ	26	Low Mountain Boarding Day School	K-6	145	K-1	250						DC5,000,000	
NM	27	San Juan Day School	K-6	72	K-6	120						DC1,000,000	
AZ	28	Salt River Day School	K-6	207	K-8	400						DC3,000,000	
NM	29	Standing Rock Elem. Day School	K-6	363	K-6	398						DC4,000,000	
NM	30	Wahpeton Boarding School	1-8	249	1-8	350							DC1,000,000
NM	31	Cove Elem. Day School	K-7	126	K-7	126							DC1,000,000
											28,000,000	30,000,000	16,000,000

Mr. OTT. Yes.

Mr. BLOUIN. All right. You put the schedule together, your agency, your division?

Mr. OTT. That is correct.

Mr. BLOUIN. This is not Mr. Demmert's division's work?

Mr. OTT. That is correct.

Mr. BLOUIN. Do we have a copy of what Mr. Demmert would lay out?

Mr. DEMMERT. For 1979, yes, right up here.

Mr. BLOUIN. We would certainly appreciate that.

Mr. DEMMERT. We did give you a copy, but I do have one here that you can have, but it is only for 1979.

Mr. BLOUIN. Can you piece something together like this from your perspective for the subcommittee?

Mr. DEMMERT. Yes.

Mr. BLOUIN. I have been looking at this since 1 o'clock on the premise that this came out of your division.

Mr. ZUNI. Mr. Chairman, I think that the heading "Five-Year Construction Schedule" is erroneous; it should be "Five-Year Inventory," the priorities to be determined by the education office.

Mr. DEMMERT. The lists that we just have given you then—and you will notice the red and blue underlining; the blue underline is color-coded and shows those are projects that were identified as a top priority under the old criteria that we used up to this year, the informal system that I was talking about. The red markings show congressional add-ons.

Mr. BLOUIN. Let me go back, Mr. Ott, Mr. Zuni, or both of you, to this plot that you have put together, which is an inventory, as described by Mr. Zuni, and not a schedule.

You pieced this together and you submit this to Mr. Demmert; is that basically right?

Mr. OTT. Mr. Chairman, what we did with this particular schedule was to try to focus on some of the problems. We used this as a working tool to try to focus on some of the problems.

Mr. BLOUIN. Why?

Mr. OTT. Why? Because we have an inventory of outstanding projects that will require a substantial amount of funding, and to illustrate the need for funding appropriation language changes to the Congress.

Mr. BLOUIN. The final decision as to what is requested of Congress rests in Mr. Demmert's division?

Mr. OTT. That is correct.

Mr. BLOUIN. You pieced this together as an instrument to focus on that problem for him?

Mr. OTT. Yes, or for the Bureau.

Mr. BLOUIN. For the Bureau to use.

How did a project such as the Salt River School—I do not recall seeing that; it may be a dilapidated veranda, for all I know. I do not want to pick it up, but as an example, how does that end up, in your opinion, as a project that has to be above that line, when the design work was done 3 years ago or longer? How long—when was that design finished?

Mr. OTT. This design is older than 3 years.

Mr. BLOUIN. I thought you did not have any older than 3 years?

Mr. OTT. I think we have designs considerably older.

Mr. BLOUIN. You have designs considerably older than that?

Mr. OTT. Your question was how did it get onto that priority list, and I think there are several answers to that. At one time, it received enough priority that funds were appropriated by the Congress. That was several years ago.

Mr. BLOUIN. In your estimation, anything that has had design work done on it, whether it is locked into an authorization process or not, you put above the line.

And on this inventory then, you base the ability to start priorities below that line, on the flow of funding to complete everything above the line?

Mr. OTT. That is essentially correct.

Mr. BLOUIN. If we were to take, for instance, some of these—and I assume wherever you mention just the word "complete" and several years later you fund—I assume that those are all similar situations?

Mr. ZUNI. Mr. Chairman, off the record?

[Discussion off the record.]

Mr. BLOUIN. What I am trying to get at, in understanding this table here, is the flow of funding and the assumptions that are made before you get down to your prioritizing. I would make the assumption, that if it were me, that we would have to necessarily complete project 28 in 1982 with nothing done for 5 years—or how many years ago did you find out that the design work was done on that?

Mr. OTT. I will find out for the record.

Mr. BLOUIN. Five years, 10 years?

Mr. OTT. Later than 3 years.

Mr. BLOUIN. Later than 5 years?

Mr. OTT. We will find out for the record.

Mr. BLOUIN. Could it be later than 10 years? Probably not, 5, 6 years?

Mr. OTT. In the early 1970's.

Mr. BLOUIN. You are talking about a 10-year gap between design work and construction, and I think it is fair to assume that that design work would have to be redesigned considerably. As you get closer to it, you are probably going to get pushed off anyway, just in a realistic interpretation, though I would not assume that that project was something that had to be completed before No. 1, 2, 5, 11 and down on the line, would even get tracked.

Mr. OTT. All we are asking is a conscious decision to that point. Is it, or is it not, a project that we want to complete?

Mr. BLOUIN. In your laying out of this inventory, you have made the decision that it is?

Mr. OTT. No.

Mr. BLOUIN. In your set of assumptions here, you have assumed that it must be completed before priority No. 1 begins.

Mr. OTT. Our assumption——

Mr. BLOUIN. In terms of $30 million funding, $50 million funding, or whatever.

Mr. OTT. We have laid out a work chart, Mr. Chairman, based on the chronological age of these projects and when they were initiated, and I stated very carefully at the beginning that we made the assumption that once started, the intent was to complete.

Mr. **Blouin.** I see that project 21, 22, and 23 above that line have no priority rating. Project 15 and 16 have no priority rating. What does that mean?

Mr. **Ott.** That means that Mr. Demmert's current priority list, it did not consider these projects because they were precommitted projects.

Mr. **Demmert.** When I looked at the list above our priority list, I did not assume that we had to follow them because they were up there. They were prioritized in line with our new system.

Mr. **Blouin.** Where would that come up? 1975, 1990?

Mr. **Demmert.** He did not address that particular issue.

Let us take, for example——

Mr. **Blouin.** Take Nadakiak, No. 23. There is no priority rating at all for that. I assume it is higher than 31?

Mr. **Demmert.** We have already started building that one, so we would complete it. Let us take one——

Mr. **Blouin.** Why do you not stop at that point? You have already started building it. You have done the design work, or actually have you done the physical construction?

Mr. **Demmert.** Let me clarify that point. It is in our 1978 plan. It is a part of our 1978 priority list, and it is therefore not identified for 1979.

If we do not get the money in a supplemental, that particular school will be re-evaluated and put into the 1979 list.

Mr. **Blouin.** You lost me.

Mr. **Demmert.** My original comment was in error.

Mr. **Blouin.** It is not a priority because you have already requested funds? You have assumed it has high enough urgency at this point that you are requesting funds for it now and you are assuming that the funding will come through so that in fiscal 1978, by complete, you mean the design work will be complete. You have locked yourself in.

Mr. **Demmert.** Yes.

Mr. **Blouin.** If it is such an emergency that you are asking for a supplemental on it, why does not the next funding come in until 1982? Why the 3-year gap?

Mr. **Demmert.** Let me check on that.

[Pause.]

Mr. **Blouin.** That is a grade school.

Mr. **Demmert.** I will have to ask Mr. Ott about that one.

Mr. **Ott.** I would like to repeat again, Mr. Chairman, if I may, the basis for the construction schedule. We seem to be losing sight of it.

The chart was responsive to some requests to identify the backlog of projects. These projects were listed in chronological age from the time the first money was appropriated for any part of the project. As a result of listing them in their chronological order and with assumed levels of funding, you can very easily plot out when you can get around to accomplishing the design and construction of that project.

Mr. **Blouin.** I understand what you are saying there. The question I am waiting for an answer on, that I thought he referred to you, was if it is such an emergency to require supplemental funds, why is it not being funded again until 1982?

Mr. **Demmert.** The reason we are requesting the supplemental for 1978 is that we did not get all of the money in 1978 that we requested, and we would like to complete that list.

Now, if we are not able to get that money and complete that list, since we have already submitted it, then we would have to move it into the 1979 priority list and/or reevaluate its position in line with the new system. It was under the older priority system that we were locked into for 1978.

Mr. **Blouin**. For design work?

Mr. **Demmert**. Design and building was part of our 1978 request, and a part of the request that was sent to Congress under the previous system before we developed the new system, which—so you have to have a break there. In 1978, it is the old system; in 1979, the new system. In this instance, not all of the 1978 projects were funded, so we are thinking about a supplemental so that we can make a clean break.

If we cannot make that clean break, then we have to talk about a 1979 list that includes an evaluation of what we did in 1978, and that evaluation would be under the new system rather than the old system it was originally submitted under.

Mr. **Ott**. Perhaps it would be helpful to the Chair if we indicated the 1978 projects?

Mr. **Blouin**. What?

Mr. **Ott**. If we indicated the 1978 projects which were deferred, or at least held.

Mr. **Blouin**. It might be.

Mr. **Ott**. Napakiak School; Lower Brule School, which is on this chart as No. 13; Standing Rock, which is the high school No. 4; Jemez, No. 5; Haskell Indian School gym, and those are the five basic educational projects in the 1978 proposal, the budget.

Mr. **Blouin**. You said Standing Rock?

Mr. **Ott**. That is 4, listed on this chart as 4.

Mr. **Blouin**. No. 4, Fort Yates?

Mr. **Ott**. No. 5 was Jemez, the Haskell gym, the Lower Brule School in S. Dak., and Napakiak.

Mr. **Pressler**. Mr. Chairman, would you yield for me to ask a question?

Mr. **Blouin**. I yield to Mr. Pressler.

Mr. **Pressler**. On the Lower Brule, what would happen in phase 2 funding for them in the new priority ranking?

Mr. **Ott**. Mr. Pressler, that is one of the issues.

Mr. **Blouin**. You could get a better answer out of Congressman Yates on that one.

Mr. **Pressler**. All right.

Mr. **Demmert**. Phase 2 is in 1978, which would complete the project.

Mr. **Pressler**. Would phase 2 be funded before Shaktoolik?

Mr. **Demmert**. It depends, in this instance, on whether we are able to complete our 1978 requests under the old system, which include our supplemental requests, or whether or not we move into the new system with that particular school and our supplemental is not honored, or whatever.

Mr. **Pressler**. Thank you, Mr. Chairman.

I might say that it becomes very confusing and complicated but I think that the discussion helps clear the atmosphere, both from your perspective and ours.

Mr. **Blouin**. I appreciate your understanding. This is very complicated, and I say the priority approach that you are taking makes a heck of a lot of sense. A problem I still see is the gap between the transition period and the emergency needs that we have found around the country. Only a few have been met in projects above the line.

Does anybody have any more questions?

Thank you very much.

Our next, and last, witness is Mr. Milford Sanderson, educational consultant for the Hopi Tribe, Arizona. Mr. Sanderson, if you could come forward?

STATEMENT OF MILFORD M. SANDERSON, EDUCATIONAL CONSULTANT, THE HOPI INDIAN TRIBE, ACCOMPANIED BY AMARA SAMARAKKODY, HUMAN RESOURCES PLANNER; AND SHIRLEY BURNETT, CONTRACTS OFFICER, THE HOPI TRIBE

Mr. Blouin. Mr. Sanderson, the committee has your statement. It seems rather brief in itself. If you would like to read it in full, that would be fine. If you would rather summarize it, that would be fine as well. Either way it will be in the record.

Mr. Sanderson. Mr. Chairman, thank you for allowing me as a representative of the Hopi Tribe to appear before you and your subcommittee. I have with me two members of the Hopi Tribal staff, Dr. Amara Samarakkody, who is our human resources planner for the Hopi Tribe, and Shirley Burnett, who is our contracts officer.

Previous to this time I have been associated directly with the Hopi Tribe as their director of human resources planner, working directly on the Hopi high school project. Presently I am an assistant superintendent for the Lawyers for Public Schools on the White Mountain Apache Reservation. But I have been retained as a consultant on this particular subject of the Hopi high school project, and that is how I appear before you.

I have been asked by the administration of the Hopi Tribe to appear before you to present testimony. I have written this statement and it is as concise as I can be about the concern that we have in the area of school facilities on the Hopi Reservation.

I think I can be quite succinct in my review of my testimony here. As you know the Hopi Tribe is anxiously awaiting the commencement of their Hopi high school project into the design phase, and consequently into the construction area.

We have for the past year approached various members of the congressional delegation from Arizona to assist us in obtaining funds that will be necessary to complete the design of that project, and we have since then been able to have some language in this year's appropriations bill which would adequately allow the continuation of the project into the design phase.

In my testimony I have indicated specifically the language from the House, the Senate, and the conference committee reports which indicate that there are statements there that would indicate that there is and was specific concern about our high school project to allow us to be able to have specific allocations of money through the appropriations bill. And we do know that generally it runs like this. We do know that there is an approximate amount of money which has already been allocated to the Hopi high school project, that amount being

$263,840. That has been allocated previously to this for a number of years.

The new allocation, in addition to that amount, is $175,000, which is earmarked under the fiscal year 1978 appropriations bill. Also within that bill there is language to indicate that if the cost of the design for the project were to exceed those two amounts, that the Bureau was to recognize the fact and would be allowed to expend monies up to an approximate amount of $801,000.

And so I am sure that if you read the report, you will understand exactly on what basis the tribe has been able to interpret the appropriations bill. And therefore, in my opening remarks on my testimony it says the Hopi Tribe is distressed that the design and construction of the Hopi Junior-Senior High School has not merited the concern of the Bureau of Indian Affairs. That statement is based on the fact that the Hopi Tribe has not received one word to date as to what is going to be done with that project, and despite the language of the bill.

We don't know what is happening, and I suppose that our hearing the previous testimony today would indicate that is the first time we have been able to get anything that would give us some food for thought, and therefore we have laid the facts before you in our testimony and statement here, utilizing what has been said in the appropriations bill, and that is what the Hopi Tribe has gone on.

We think we have gotten enough support to get that kind of language, and we hope that the language is strong enough to allow the BIA to take action. And we are anxiously awaiting some kind of word as to how the Bureau of Indian Affairs is going to proceed.

Luckily yesterday we were able to run into some information from one of our congressional delegates, and it is a letter that is written, but it is very unclear. It makes some statements which are very ambiguous which we did ask that the congressional office which we got this letter from as to whether we could use it as a point of reference, and we were given permission to do so.

Mr. BLOUIN. Can you use it for submission in the record?

Mr. SANDERSON. I think so.

Mr. BLOUIN. We would appreciate that.

Mr. SANDERSON. So I would like to submit that as part of the record.

[The prepared statement and letter referred to follow:]

For Release Upon Delivery

Statement by
Milford M. Sanderson
Educational Consultant
The Hopi Indian Tribe
Post Office Box 43
Oraibi, Arizona
86039

for

Abbott Sekaquaptewa
Chairman
The Hopi Tribal Council

before the

Subcommittee on Elementary, Secondary and
Vocational Education in conjunction with
the Advisory Study Group on
Indian Education of the Committee on
Education and Labor
402 Cannon House Office Building
Washington, D.C. 20515
Wednesday, September 21, 1977
1:00 p.m.

Mr. Sanderson is accompanied by:
Amara Samarakkody, Human Resources Planner The Hopi Tribe
Shirley Burnett, Contracts Officer The Hopi Tribe

INTRODUCTION

Mr. Chairman and members of the Sub-Committee,

I welcome the opportunity to appear before this distinguished sub-committee to present testimony on behalf of the Hopi Tribal Council and it's Chairman, Mr. Abbott Sekaquaptewa.

The testimony which follows will point out the fact that the Hopi High School Project which is to be located on the Hopi Indian Reservation, has not received design funds in accordance with FY-78 Interior and Related Agencies Appropriations Bill of the United States Congress. This project has gone through project site identification/assignment and educational program planning requirements and has been awaiting the necessary design funds, since June 1976, in order to allow the Hopi Tribe to proceed with the project design requirements.

Mr. Milford Sanderson
Education Consultant
The Hopi Tribe

TESTIMONIAL STATEMENT

September 21, 1977

Dear Mr Chairman and Members of this Subcommittee:

The Hopi Tribe is distressed that the design and construction of the Hopi Junior-Senior High School has not merited the concern of the Bureau of Indian Affairs. To date the Hopi Tribe has not received any communication from the Bureau of Indian Affairs which would indicate that the design of the Hopi Junior-Senior High School Project be commenced.

The language of the reports regarding the 1978 Department of the Interior and Related Agencies Appropriation Bill, referencing the Hopi Junior-Senior High School Project, leads the Hopi Tribe into believing that specific direction has been given to allow the Bureau of Indian Affairs to release design funds.

The following quotes have been extracted from reports and are cited below to substantiate our understanding.

(House Report)

> (Page 46) "Hopi Indian High School, Arizona (design) plus $170,000.
>
> (Page 46) "In addition, the committee has not approved the reprogramming of the following items....$263,840 for the design of the Hopi Indian High School....The committee directs that the above stated funds be released so that the project may proceed".

(Senate Report)

> (Page 28) "The Bureau currently has some $62 million available in unobligated construction funds. While the committee is cognizant of the need for improved educational facilities, the first

step toward meeting these requirements must be vastly improved functioning of the Bureau's construction program."

(Page 28) "The Commission is directed to supply quarterly reports to the Committee on the obligation of construction funds along with an explanation for unusual delays in any of the projects".

(Page 29) "Design of Hopi High School....$175,000

(Page 29) "The following reprogramming(s) also proposed by the Bureau are denied, and the funds are to be obligated for their original purpose(s)....$263,840 for the design of Hopi Indian High School".

(Page 29) "The committee has provided a total of $439,000 for design of the Hopi High School but understands up to $801,000 may be required for this work. The Bureau is directed to provide whatever additional amounts are needed for completing the design from within available funds."

(Conference Report)

(Page 10) "The conferees are in agreement that the extensive reduction in new construction is necessary to underscore their continuing concern over the serious BIA management problems that have undermined progress on fulfilling the needs of the Indian people. Meanwhile, the conferees will expect the BIA to develop acceptable plans for the effective obligation of the estimated $62 million in funds already available for construction as provided in the following amendments."

> (Page 10) "Provided further, that the Secretary shall engage the General Services Administration to supervise the planning, design construction, and maintenance of school facilities; and that within 90 days following enactment of this bill the Secretary of the Interior shall submit to the Congress a plan for expenditure of planning and construction funds available to the Bureau of Indian Affairs and shall advise during the year on achievement of plans and construction."

Previous to the final action on the Appropriations Bill there were some constraints which the Bureau of Indian Affairs utilized in justifying non-action on the Hopi Junior-Senior High School Project design. However, these have been dealt with adequately and a higher priority rating has been assigned to this project, which should allow immediate action to be taken towards the implementation of the projects design.

The Hopi Tribe is the only major Indian tribe in the United States that is without secondary school facilities on its reservation, a facility that is today commonplace and a basic part of the education system in almost every other community in the United States. Therefore, the Hopi Tribe is anxious to cooperate with the Bureau of Indian Affairs to expedite this matter quickly. Hopi Tribe Resolution H-66-76 is attached in order to substantiate our intent.

Gentlemen, I thank you for your consideration and support.

HOPI TRIBE
RESOLUTION
H-66-76

WHEREAS, the Bureau of Indian Affairs Division of Facilities Engineering has appropriated funds for the design of the Hopi Junior-Senior High School Project; and

WHEREAS, Hopi Tribal Resolution H-57-76 authorizes and directs the Tribal Chairman or his designee to negotiate with the Bureau of Indian Affairs for the design phase of the Junior-Senior High School Project and to request for the designs funds; and

WHEREAS, the Tribal Chairman and the Director of the Community Education Program have met with the Bureau of Indian Affairs on May 19, 1976, and have obtained a verbal agreement to initiate the design phase of the Hopi Junior-Senior High School by contracting design funds from the Bureau for said project to the Hopi Tribe.

NOW THEREFORE BE IT RESOLVED by the Hopi Tribal Council that the Hopi Tribal Chairman or his designee be and they are hereby authorized and directed to enter into a contract with the Bureau of Indian Affairs to acquire the funds appropriated for the design of the Hopi Junior-Senior High School Project.

Hopi High School

The Bureau of Indian Affairs received an application for design of the Hopi High School from the tribal chairman on December 12, 1977. The Bureau has approved the application and will contract with the tribe under P.L. 93-638 to provide design services during the month of January/February.

An archeological study and environmental assessment will be required, and it is anticipated that the Bureau will contract with the tribe for these services.

Attached is a copy of an agreement made on September 22, 1977 with the representative of the Hopi Tribe and the Bureau of Indian Affairs.

Attachment

- Received 12/21/77
Advisory Study Group
on Indian Education
from Bill Ott,
Office of Administration, BIA

United States Department of the Interior
[illegible]
Washington, D.C. 20245

September 22, 1977

For the Record

Minutes of a discussion between Mr. Sanderson, Mr. Ott, Mr. Russell and Mrs. Donnelly.

As a result of the Congressional appropriations for FY 78 and the carry forward available funds from prior year appropriations, the Bureau of Indian Affairs anticipates the award of approximately $438,840 to initiate the design of the Hopi High School in the early part of October, 1977. The award of this money will be contingent upon the clear definition of the design work to be accomplished towards the total completion of the Hopi High School design.

It is further understood that the total funding required to complete the Hopi High School design is on the order of $801,000. At the present time the Bureau does not have funds available for the total design effort.

It is agreed that the Hopi Tribe, as represented by Mr. Sanderson under the delegation authorized by the tribal chairman, and the Bureau of Indian Affairs represented by the Chief of the Division of Facilities Engineering will make their best efforts to achieve a P.L. 93-638 contract agreement within two months for completion of this project from October 3, 1977.

B. D. Ott, Assistant Director, Management Services

Ned Russell

Ned Russell, Chief, Division of Facilities Engineering

Milford M. Sanderson

Milford Sanderson

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Mr. **Sanderson**. May I read that? It is a very short letter but it will show you the ambiguity.

Do you have to vote?

Mr. **Blouin**. No, we are adjourning, that is, the floor is.

Mr. **Sanderson**. OK. This letter is written to the Honorable Eldon Rudd. It reads—

> We wish to apologize for the delay in responding to your letter of May 20th concerning the funding of the Hopi Junior-Senior High School Project. Based on recent House, Senate, and Conference reports on the Bureau's construction budget request for fiscal year 1978, relating to the Hopi Junior-Senior High School, the Bureau has scheduled in the fourth quarter to contract for part of the design services with the Hopi Tribe, utilizing the $263,840 currently available. The Conference report approved an additional $175,000 for design funding in fiscal year 1978. A new method of determining priorities is presently under review. The Hopi Junior-Senior High School Project is number 9 on this priority list. If the level of education construction funding remains relatively constant, the Bureau would be requesting construction funding no earlier than fiscal year 1982, provided no projects of higher priority are inserted. We trust this information will enable you to help your constituents.

And it is signed by the Acting Deputy Commissioner for Indian Affairs.

Now, the ambiguity begins in the second paragraph where they say that—they speak of the fact that the Bureau has scheduled in the fourth quarter to contract for part of the design services. Well, we don't know what fourth quarter they are talking about, the fourth quarter of this fiscal year that is ending in 10 days or the fourth quarter of fiscal year 1978?

Mr. **Blouin**. I think it would have to be this year.

Mr. **Sanderson**. Well, it doesn't specifically say that. We are unsure. But then again it says in the next paragraph "The conference report approved an additional $175,000 for design funding for fiscal 1978," but I assume—and this is an assumption—that since that $175,000 has been appropriated in this fiscal year 1978 appropriations bill, that those funds would be available after October 1.

Mr. **Blouin**. Well, if it is for fiscal 1978, the $175,000 would be for after October.

Mr. **Sanderson**. October 1. So as I said, we have not received any word from the Bureau of Indian Affairs as to what they are going to do about allowing the funds that are already available to be——

Mr. **Blouin**. Let me stop you on that point and ask Mr. Ott.

On your 5-year construction inventory, Hopi High School, right after it, and there is a small "d," and I assume that is for design, and available funds unobligated has $438,840, which is the sum of the $175,000 and the $263,840.

Mr. **Ott**. That is correct.

Mr. **Blouin**. Those are the funds presently available or is this on the assumption of fiscal 1978?

Mr. **Ott**. That includes fiscal 1978 funding.

Mr. **Blouin**. All right.

And is Mr. Sanderson correct in his understanding that that $175,000 is for 1978; $263,000 is for this year, this fiscal year?

Mr. **Ott**. The $263,000 is carried forward funds from previous allocations, previous appropriations, and the $175,000 is part of the fiscal 1978 appropriation.

Mr. **Blouin**. $263,000 is alive this year, prior to October 1.

Mr. OTT. Yes, and we are attempting to get that particular project.

Mr. BLOUIN. Am I correct in assuming that the reference to fourth quarter is for this quarter that we are presently in?

Mr. OTT. Our intention was to proceed with the $263,000, Mr. Chairman, and do it in this quarter.

Mr. BLOUIN. This quarter. Is that still your intention?

You put that in the past tense. Is that still your intention?

Mr. OTT. Only because I am not right up to speed on where we stand. The fourth quarter is almost finished and I do not know just where we stand on it.

Mr. BLOUIN. Who would know?

Mr. Zuni?

Mr. OTT. Do you know?

Mr. BLOUIN. Could you supply for the subcommittee where we stand, the specific information on where we stand?

Mr. OTT. Yes, I will, Mr. Chairman.

Mr. BLOUIN. Thank you.

Excuse me, go ahead.

Mr. SANDERSON. The letter, as I said, in the second paragraph does mention the $175,000 funding as a part of this year's fiscal year 1978 appropriations bill, but it stops there, in terms of the amount of money that could be available if the need was there, in terms of finishing the design now.

I go back to my testimonial statement that says——

Mr. BLOUIN. Let me make one quick editorial comment, if I might. The letter was to Congressman Rudd, was dated September 10 and received by him September 13. This is September 21, so I think it is fair to assume that the BIA position on this hasn't changed all that much in 12 days.

Mr. SANDERSON. I would not think so.

Mr. BLOUIN. OK. It is responding to a May 20 letter, however. That part of it was the editorial comment.

Mr. SANDERSON. I reserve comment on that.

OK, now, the BIA response in that letter referring to 175,000, but, you know, in the bill it does say this. It says the committee has provided a total of $439,000 for design of the Hopi High School, but understands up to $801,000 may be required for this work. The Bureau is directed to provide whatever additional amounts are needed for completed design from within available funds.

Now that, there is no—the letter does not allude to that statement which is part of the appropriations bill. Now, in our attempts to try to get clarification as to what additional funds were being alluded to, we find in the Senate report to that bill on page 28, it says the Bureau currently has some $62 million available in unobligated construction funds. "While the committee is cognizant of the need for improved educational facilities, the first step toward meeting these requirements must be vastly improved functioning of the Bureau's construction program. But we have been directed—" that is where the extra amount to bring it up to $801,000 would come from.

Mr. BLOUIN. Let me stop you on that point.

The Senate report on the bill that they debated has that reference to it. The bill doesn't necessarily have it, but the report does. The

House report on the bill, the House version of that bill does not contain that reference.

Mr. SANDERSON. No, no.

Mr. BLOUIN. And I would think the real test would be whether or not the language carried over into the conference report, and I am not sure it did. We will check on that and try to inform you.

Mr. SANDERSON. That is the point that I wanted to make because in the conference committee report there are a lot of things not said which a person would read which do not substantiate what was said in the House or Senate reports. Then again, it may. It just depends upon what the language, what the deliberation was behind these.

Mr. BLOUIN. My concern would be which would carry the test of law, and my guess is that usually the conference report would prevail unless there was some language that referred to the intent of bills if they went through both Houses, and I am not sure that language was there.

I think it is clear that the $439,000 is absolutely there.

Mr. SANDERSON. Right.

Mr. BLOUIN. The question would revolve around whether there is the $801,000.

Mr. SANDERSON. OK. Well, that is, if at all, if your committee can get that clarification for the Hopi Tribe, it would be most appreciated, because you know, that is our understanding.

Mr. BLOUIN. We will give you our understanding of it. That is the best we can do. I am not sure we can give you the final word on it, but we can give you our understanding.

Mr. SANDERSON. Well, I understand your relationship to the Appropriations Committee.

Mr. BLOUIN. Well, it is beyond the question of just power. This subcommittee would not have the power to determine, to interpret this as the final word.

Mr. SANDERSON. If I may continue, then the statement, then basically, of course, is asking that the Hopi Tribe is the only major Indian Tribe in the United States without secondary educational facilities and that has been for quite a long time, and the kids that we are now educating are being educated in conditions that provide very difficult situations, and when you are busing kids 85 miles one way, and you are having to board them 500 or 600 miles away and, you know, not come home as often as, you know, no normal village or community or whatever in the United States would allow that kind of a situation.

Now, I understand what was presented in the previous testimony about the scheduling of priorities of whatever, and I understand the complexities that the BIA is under, yet, you know, we think we have an emergency situation.

Mr. BLOUIN. What you are saying, if I understand you, is that No. 1, you would like to know where all of this really does stand.

Mr. SANDERSON. Right.

Mr. BLOUIN. No. 2, you would like BIA to use some of its discretionary funds to submit design bids for the entire project, immediately.

Mr. SANDERSON. Yes.

Mr. BLOUIN. As opposed to spreading it out over a couple of years.

Mr. SANDERSON. Right.

Mr. Blouin. Could you give us some comments on in what ways you would consider this project an emergency? We have been there, we as a subcommittee have visited the site where you plan on putting the school. I think we can attest to the fact that you have nothing in terms of a high school facility on the whole reservation. I think even the prioritizing system that the BIA is about to move into, or hopefully is about to move into recognizes that with a No. 9 rating.

What I am looking for are some facts or some justifications for the emergency aspect of it, for our record purposes.

Mr. Sanderson. I would like to comment on that. The system that the BIA indicated to you as to their way of presently prioritizing, I believe alluded to the fact they categorized three areas. On the last page it says there are three areas, those that are housed in the BIA area, those that are housed in the BIA agency or reservation, those that are housed in their communities. Now, my assumption is that, A, those in house within the BIA area are going to be getting more points than the C area, those in houses in the community.

Well, A shoots us down just like nothing. Of course our kids are housed in the area, BIA area. They are going to the boarding schools in the Phoenix area. So, you know, that is a fact that is there. But it doesn't indicate the fact that yes, they are housed so we can't qualify under A.

Now, if they would look to the situation of saying, well, OK, given the fact that there is no other way that we can educate Hopi children except by sending them to boarding school, then, you know, it doesn't sound right to us giving us a fair assessment of our needs, just to say that they are housed and to say, well, they are housed within an area doesn't mean anything at all because you are still sending our kids 700 to 900 miles away. Sure they are housed, but that doesn't speak to our specific situation. That is one thing. In terms of the emergency, I think that that certainly doesn't meet the criteria we have, It just doesn't.

OK, the other one is that we are this year for the first time getting a very major impact, getting a very major impact on the schools right now. We have just in the past couple of years been able to make arrangements with public high schools that are right off the borders, Winslow, Holebrook, Ganado. More Hopi kids are deciding that they want to stay home and are subjecting themselves to an 85-mile bus ride. We are transporting 206 kids right now, and kids who are attending the boarding schools on the reservations are not opting to go to the public school, grade school, and still subjecting them to a ride of about 60 miles one way. So the desire for some kind of schools to be close to the reservation, the need is growing and the kids are expressing it, you know, not only the parents but the kids, and I think that when the situation presents itself, it doesn't allow a community and its youth to be educated locally, I think it is an emergency situation, especially when the Hopis have gracefully allowed themselves to be serviced by the Bureau of Indian Affairs, and they have to be subjected to having their kids, a major portion of their kids living away from their home for many years, and now they are addressing themselves as responsible people, responsible adults who are saying we want to have some control over the education of our children. We don't have an opportunity.

There is a major emergency there. Think about the impact on our cultural and social preservation—the impact on those two things.

There is an impact, and you talk about the disintegration of the tribe? Well, it is beginning, if we don't get ahold of those kids.

I am right now, I am assistant superintendent for public schools on the White Mountain Apache Reservation. Those guys have it made. They have got a public high school right in the center of the community. Every one of their kids go there. And you know, they have all those things there that could be for Hopi, but Hopi doesn't have it.

And I am sure that if you go to any community in the United States or city in the United States, if they didn't have secondary educational facilities there, you would have those people here in no time. You know, it is just—no community goes without that kind of facility.

Oh, and what I wanted to say is OK, I think that we are talking about an emergency in terms of acts of God, unsafe or unsanitary situations. We don't have a building to burn out there. We don't have a building to have poor plumbing, or poor electricity, or poor sewage, or whatever. So in terms of using that as an emergency situation, we couldn't even qualify in that way.

You know, so to use emergency to say do you have that kind of emergency situation, no we don't. And if you used that as a criterion, we could never qualify for getting, you know, getting any higher prioritization.

So, our need is dire, and we have been waiting for a long time.

Mr. Blouin. OK.

Let me attempt to clarify a couple of points.

As I understand the limitations of this subcommittee, we have no control over the specific prioritizing of funding projects, and I don't want to leave the impression with you, or with anyone else, or on the record that we are somehow assuming that power. What we have asked you folks to come for is to put on the record what we think is a very good example of construction needs as we have seen them in our travels around the country, and the problems with the present prioritizing or lack of meaningful prioritizing in school construction, and I think hearing your comments makes that record very clear. I hope that the kinds of problems you are running into will very soon disappear.

We will be happy as a subcommittee to supply a copy of this hearing to Mr. Yate's subcommittee for their background. We will, as I said earlier, try to sort out from the conference report the effect of that report on this Senate report of June 16 of this year and try to let you know whether we can find anything in there that ties it together. But that opinion will be about what you pay for. It won't be worth much more than that. It will be our opinion of it, period. But we will be happy to supply you with that.

Mr. Sanderson. Well, let me say one thing—and I take your remarks, and I understand very well what you are saying, in general, about the construction program. As you know, sir, as you indicated to the Bureau of Indian Affairs that you felt that the most, that their attempts to create some kind of an equitable priority system was probably the best thing they could do, and you know, I would say that I would agree with you.

But I feel there needs to be more communication between the BIA and the tribes themselves to see exactly how their prioritization is doing in relationship to other areas.

Mr. Blouin. That is a very good point.

How would you formalize that kind of communication, that kind of tribal input?

Mr. **Sanderson**. I don't read you just——

Mr. **Blouin**. As I understand it, the only way a project can get prioritized is to apply through an area office.

Mr. **Sanderson**. Yes; in fact, I have been involved in that process. The Bureau sends an application form to the tribe and the tribe looks at the form and then fills it in with whatever kinds of expertise they have to do so, and then that is sent in. But I don't know if there is any attempt by the BIA to verify the information, to see that it is reflective of what is, you know, what the situation is on that reservation.

And so, you have—a tribe can send in information that may not be substantial, you see, or may be inadequate, and yet, that is all you do. And from there on the BIA takes it and they use that information to come out with their prioritization.

Mr. **Blouin**. Well, don't they run that back by their area office to get the local understanding of the situation?

Mr. **Sanderson**. I don't know, because I do know in my past experience in this area the Hopi High School was listed as the No. 1 priority in the agency level. It was listed as the No. 1 priority in the Phoenix area level. But when it got down to central office, it was No. 21, and when we approached the agency, when we approached the area, they didn't know what, you know, why it was changed or whatever, you know, or how it was ever given that priority of 21.

And so—well, we also recognize the fact that that has been changed from 21 to 9 at this point in time. But I don't know, that there is any work between the central office and the area, in terms of working on this project. But I do feel that there needs to be a little bit more communication between the central office; have those people who are doing the prioritization sit down with the tribe and show them exactly how they stand in relationship to other programs, because it is not so much that there is going to be a hassle of tribes having too much information that they can use to battle each other, to try to vie for a higher position, but I think it is just the fact that, well, the Hopis think the Hopi High School is the most important school project in the United States. Probably some community in Alaska thinks it, too. And so who is in the middle? The BIA.

You continue to attack them. But if we had a little more understanding of how we relate to the national, soon that may perhaps give a little more understanding in recognizing the fact of why we are No. 9.

Mr. **Blouin**. Well, I think you make the case very clear for the need for this kind of a national prioritizing system, and I would agree with you that there probably needs to be more tribal-BIA communication. not just in construction but in all phases of education.

Mr. **Sanderson**. Yes. You see, the area, they are talking about some projects that have already been commenced, through political pressure so to speak. Well, when you find that you are one priority and all of a sudden next year some other project jumps you in priority, you wonder why or what happened. And when you know that one school is dropping in enrollment, some 600 to maybe 300 kids and yet Congress is dumping $10 million in that school, you wonder what is happening, and where do you stand.

And you can go on and on in this whole situation, and you wonder, well, what do we have to play? Do we have to play politics, or can we approach the BIA and speak not with a forked tongue?

Mr. **Blouin.** Well said.

Ms. Burnett?

Ms. **Burnett.** I would like to address another area which is a very great concern to the Hopi Tribe.

On May 11, 1976, we received a letter from the chief of the Division of School Facilities of BIA, and I noticed on today's witness list he was here, and a portion of this letter verbatim says:

> As the functional requirements are now approved, and design funds are available, this Division is prepared to proceed to A and E selection and preparation of contract documents.

This was our last word, and this was May 11, 1976. They were ready to enter into our second phase, and we have not had one word since that time. But according to this they are ready to go ahead with the A and E selection. That has been almost a year and a half, and we have not heard since.

And this addresses the area of communications within tribes, the fact that they say one thing and they don't do it. It is a very discouraging——

Mr. **Blouin.** Let me just say for the record that that person is still here. He has heard your comments, and I would hope that the commitment to begin the design work that is in this quarter will continue, and that your dismays will disappear on that aspect.

What would be your offhand response to the recommendation GSA made today about locking in projects as total projects?

Mr. **Sanderson.** I think it is a very good idea.

Mr. **Blouin.** What do you think that would do to the Hopi project, with the design work of maybe $800,000, construction of about $14 million, realizing the limits of the budget?

Mr. **Sanderson.** I think there would have to be quite a bit of intricate planning to assure that you have the right amount of money to construct it, but you know, in the one sense it is a good idea, and in the other sense it isn't the normal way of constructing facilities. You design and you design and you come up with an estimated cost, and then you look for the money to construct.

Mr. **Blouin.** Excuse us for a moment.

[Pause.]

Mr. **Blouin.** Mr. Ott, which one of these sheets is the accurate one?

Mr. **Ott.** I am afraid we have a little egg on our face, Mr. Chairman. We have two sheets; the one that was marked revised and that isn't marked revised, when you look at Chemawa, it has got a change on Chemawa.

Mr. **Blouin.** Well, it has got a change on Hopi. That is why it caught my attention at all. In this sheet here, it has available funds and obligated funds of $438,840, and on this one that figure is $263,840. On this one it has the design work being done, split fiscal 1978-fiscal 1979, and on this one it is all 1978.

Mr. **Ott.** The one that has the larger number is the right one. It was updated to include the anticipated 1978 funds, which is the total of $438,000, thereabouts.

Mr. BLOUIN. All right, so you gave us copies today of the outdated one.

Mr. OTT. I apologize for that. My budget analyst picked up the wrong one.

Mr. BLOUIN. OK, thank you. I am glad we caught that before we adjourned.

The figures I gave you folks here now in the beginning were the right ones. I wanted to catch that.

Mr. SANDERSON. Yes, as we understand information given to us, that amount, combining $175,000 and $263,840, that amount was indicated by the Bureau that would be adequate for phase 1 of the project, and that an additional amount of $362,000 would be needed to complete the phase 2 design, and that is how they total it up. It comes out to $700,000—I mean $800,000. So they just rounded it off.

Mr. BLOUIN. Well, apparently on this outdated one they assumed, it must have been based on some Senate report assumptions.

Mr. OTT. Yes, it was, Mr. Chairman. I apologize for that. The budget analyst made some mistakes, and we asked him to correct it, but the chart that has the lower case corrections you can recognize.

Mr. BLOUIN. All right, so we can destroy these.

Mr. OTT. Yes, sir.

Mr. BLOUIN. Can you get us some copies of the right one?

Mr. OTT. Yes, sir.

Mr. BLOUIN. Thank you. We would appreciate that.

OK.

Any questions, or do you folks have any more comments you would like to make?

Mr. Ott?

Mr. OTT. May I just make one comment, Mr. Chairman?

Mr. BLOUIN. Please.

Mr. OTT. I believe Mr. Sanderson was involved in a functional specification for the Hopi High School. He assisted in that and the Hopi Tribe as well. That is one of the finest examples we have of good school planning. We are very pleased with that document, and I thought I might note that for the record.

Mr. BLOUIN. Thank you.

We appreciate your coming. We appreciate your helping us make this record. I think you folks have given us a good example of what we have been trying to point out.

Mr. SANDERSON. May I express the pleasure of the chairman of our tribe in having you as his guest on our reservation earlier this spring, you and Mr. Quie, and we certainly appreciate your concern for our problems.

Mr. BLOUIN. Thank you.

The subcommittee will be adjourned.

[Whereupon, at 3:49 p.m., the subcommittee adjourned subject to the call of the Chair.]

INDIAN EDUCATION—OVERSIGHT

Part II: School Construction—Johnson-O'Malley

THURSDAY, OCTOBER 6, 1977

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 1 p.m., in room 2261, Rayburn House Office Building, Hon. Michael T. Blouin, presiding.

Members present: Representatives Blouin, Quie, and Pressler.

Staff present: Alan Lovesee, counsel; John Forkenbrock, staff director; Scherri Tucker, assistant clerk; Chris Cross, minority senior editorial consultant; and Jennifer Wysong, minority research assistant.

Mr. Blouin. The subcommittee will come to order.

The Subcommittee on Elementary, Secondary, and Vocational Education in conjunction with the Advisory Study Group on Indian Education is conducting a series of hearings on Indian education. The topic this morning is the Johnson-O'Malley programs, both supplemental and basic support.

We are aware of some of the problems encountered by the tribes with JOM supplemental assistance, and the current phase out of the basic support funds. We hope that by having this hearing, we will be better able to resolve these problems.

We thank the witnesses for coming before the subcommittee to present their views on this issue. We also have representatives from Minnesota alternative schools, and we look forward to their testimony.

The first panel will consist of witnesses from the Bureau of Indian Affairs, Dr. William Demmert, Jr., Director of Indian Education Programs; Mr. George Scott, Acting Chief, Branch of Special Programs; and Mr. Edward Moore, the Assistant Area Director for Education from the Muskogee Area Office.

Let me apologize for the tardiness of this hearing, but we have had a bill on the floor all day yesterday and most of today, and we have just finished completion of it. It was a bill that came out of the Education and Labor Committee, and most of us on this subcommittee are also members of the overall committee, and we thought that we had to be on the floor.

We appreciate your patience, and your willingness to allow us to move the time a little.

Mr. Demmert, you may proceed in any way you wish. You have a prepared statement, which will be submitted for the record in its complete form. Please feel free to proceed as you wish.

STATEMENT OF WILLIAM DEMMERT, JR., DIRECTOR, INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY GEORGE SCOTT, ACTING CHIEF, BRANCH OF SPECIAL PROGRAMS; AND EDWARD MOORE, ASSISTANT AREA DIRECTOR FOR EDUCATION, MUSKOGEE AREA OFFICE, BIA

Mr. Demmert. Let me just briefly address Johnson-O'Malley education assistance. We provide special supplemental assistance to programs designed to meet the special educational needs of Indian students. We also provide operational support or basic support to public schools in five States, and assistance in financing the cost of nonresident Indian children, housed in Federal dormitories, who are attending public schools.

In the supplementary program, we estimate that we are funding about 175 students at an average $150 per student. In basic support, we fund 27 schools, 8 dormitories. The supplemental support under Johnson-O'Malley parallels the supplemental support under Title IV, Indian Education Act of 1972, and together, probably, adequately supplement schools that Indians attend.

When we talk about particular needs, Johnson-O'Malley and Public Law 874 both provide basic support. We have found that separately, many of the schools that Indian children attend were not receiving adequate levels of support for basic programs, and as a result have initiated some rules and regulations that will allow us to provide for continued Bureau support to public schools for basic programs.

The difficulty in identifying the amount of basic support that a school needs depends a lot on the amount or percentage of funding that the State provides to the local schools, and what is required by the local communities. In attempting to identify the amount of money a school needs, I think both factors—the amount of State assistance and the local school need—have to be looked into very closely.

This covers pretty well what I have in the eight pages of testimony. I know that the two of you like to keep this as short as possible. So I will stop there.

Mr. Blouin. Thank you. I think that we have a statement from Mr. Moore as well.

Mr. Moore. In the document that I submitted, I attempted to describe the operation of the Johnson-O'Malley plan in eastern Oklahoma, which is the Muskogee area.

Oklahoma was not able to participate in Johnson-O'Malley when it was first enacted. When the act was amended in 1936, Oklahoma became a participant. From 1936 until 1947, the funds were administered by the Bureau through the agencies in Oklahoma. Since 1947, we have contracted the operation with the State Department of Education. That has continued to the present, and up until 2 years ago, because of the amount of money involved, the program went only into those schools whose enrollment was 10 percent or more Indian. Since a year ago, funds go into any schools that desire the program.

We had 106 schools, I believe, last year in the Muskogee area. I believe the program is functioning as economically and efficiently as it can with the arrangement that we now have. We think that it is operating according to the wishes of the Indian people in eastern Oklahoma.

Very briefly, this is what I have in here.

Mr. **Blouin**. Mr. Scott, do you have any comments that you would like to start out with?

Mr. **Scott**. I don't think so.

Mr. **Blouin**. Mr. Demmert, have you had an opportunity to assess H.R. 9157, in terms of how it would affect the JOM basic?

Mr. **Demmert**. Is that section 2 of the bill?

Mr. **Blouin**. Yes.

Mr. **Demmert**. Yes, I have run through that, and attempted personally to assess that. We have not done it administratively or officially.

Mr. **Blouin**. Unofficially, what is your assessment of its effect on the need for JOM basic?

Mr. **Demmert**. If section 2 were to be fully funded, you are talking, at minimum, 175,000 students, a national average per pupil expenditure of close to $1,400. You are talking about a good chunk of money, a very large amount of money. The need for Johnson-O'Malley basic, or any basic effort from the Bureau of Indian Affairs would not be necessary.

As I understood the law, or as I understood the proposed legislation, it was on an entitlement basis. My own position is, and the official position of the Bureau is, or has been, in attempting to identify a school district's needs, we need to look at the State responsibility, and what that foundation program provides. We need to look at what the local tax base can support, and then attempt to meet the difference between what the school gets from those two sources, and the need.

In economically depressed areas, there is always a need for money, regardless of whether the school is Indian or not. In this case, we are primarily concerned with schools that Indians attend.

I guess I answered your question by saying that there probably would not be a need for Johnson-O'Malley basic support.

Mr. **Blouin**. With or without H.R. 9157, is it the intent of the Bureau to phase out basic support of JOM?

Mr. **Demmert**. The original intent was to phase out basic support of Johnson-O'Malley over a 3-year period. We are in the third year now. Last year, which was the second year, we recognized that there were public schools throughout the Nation that required additional basic support not provided by impact aid.

So we recommended the continuation of the basic support, and have developed some draft rules and regulations to continue basic support for public schools, not as a part of the Johnson-O'Malley program, but as a new program for public school support. We should have a draft of those rules and regulations ready to distribute for comments and review sometime in December. But we are continuing basic support for 27 schools. We provided support for them last year, and we will continue support for them this year.

Mr. **Blouin**. At the one-third level?

Mr. **Demmert**. Basically at the one-third level.

Mr. BLOUIN. Is it your intention that this new basic support program continue at this one-third level equivalent?

Mr. DEMMERT. Not necessarily.

Mr. BLOUIN. You may go higher?

Mr. DEMMERT. It may go up or down, depending on the need of that particular school.

We want to look at two things very critically, and that is the effort at the State level, and the effort at the local level. Where the public school in a State is receiving its fair share—the public school that Indian children attend is receiving its fair share, in my personal opinion, we have a responsibility for closing the gap between the need and what they have.

Where the State is not providing its fair share, or what it is providing in comparable districts, then I think that we have a question as to whether or not the Federal Government should make up that difference. We hope to study that.

Mr. BLOUIN. Is it your intent to add any additional schools to that list of 27 schools?

Mr. DEMMERT. We have done an internal preliminary survey of the number of schools that will require basic support. The information tells us that there may be a few more. But of the 27 that we now fund, it is possible that the amount should be reduced, or that some of them could eventually be phased out.

We do not have any hard data on that. It was a preliminary survey. We hope to get into that in more detail in the next year.

Mr. BLOUIN. Let us get back to the one-third level of JOM that you are going to maintain this year. How much money is there to be used for that one-third for, I assume, the 27 schools?

Mr. DEMMERT. It is $3.2 million, or a little more.

Mr. BLOUIN. It is actually a little bit higher than one-third.

Mr. DEMMERT. It is $1.3 for a third, but the Appropriations Committee added $1.9 for the 1978 budget.

Mr. BLOUIN. When will that be distributed?

Mr. DEMMERT. We will have a tentative allocation, in about a week.

Mr. BLOUIN. You will have the tentative allocation in about a week, which would be as good as a verification that the money will be coming.

Mr. DEMMERT. Yes.

Mr. BLOUIN. Will all of last year's schools be kept at last year's level?

Mr. DEMMERT. Let me have George answer that. He works on the details of the 27 schools that are funded, and he is more familiar with the flexibilities and the adjustments.

Mr. SCOTT. The majority of the schools will remain the same. They will be basically the same with a slight increase. There will be four or five that will get pretty sizable increases. There will three or four that will get a reduction.

Mr. BLOUIN. Will they get much less?

Mr. SCOTT. They will get one-third.

Mr. BLOUIN. The rest that will get the same, what will determine that?

Mr. SCOTT. From what information we could get from the 27 school districts as to the State effort, the local effort, and the fact that they got their funds heretofore from Johnson-O'Malley, we look at the different situation with each school system. Based on those types of things, we try to estimate exactly what schools should receive what.

Mr. **Blouin**. Those three or four schools that will probably get less, are they in the same State or the same area of the country?

Mr. **Scott**. Some are in the same State.

Mr. **Blouin**. Is it directly tied to State support?

Mr. **Scott**. Yes. The reason that we felt that these schools should take a reduction because the assessed property valuation per student exceeds $25,000.

Mr. **Blouin**. Let me ask some questions on another topic. What JOM supplemental formula is being used today?

Mr. **Demmert**. We have been using the same formula for the past 3 years. The distribution is made on a percent level of funding times the weighted State average per pupil expenditure.

We looked at several options over the past year, but we are instructed by some language in the appropriations act to distribute the money in fiscal year 1978 in the same way we had distributed in fiscal year 1977. At that point, the Commissioner decided to continue to use that formula.

Mr. **Blouin**. The question of the formula, has this been settled?

Mr. **Demmert**. The Bureau has decided to continue to use that formula, unless otherwise instructed.

Mr. **Blouin**. How many tribes contract JOM?

Mr. **Demmert**. In 1977, 121 Johnson-O'Malley contracts as opposed to four in 1972.

Mr. **Blouin**. 121?

Mr. **Demmert**. Yes.

Mr. **Blouin**. You had four in 1972?

Mr. **Demmert**. Yes.

Mr. **Blouin**. Why this rapid growth, in your opinion?

Mr. **Demmert**. Mostly because of Indian Self-Determination Act of 1975, which requires the Bureau to allow tribes to contract for certain services we had heretofore provided, with some specific limitations, of course.

Mr. **Blouin**. Do you think it has hit its high mark, or do you expect substantial growth to come in the next couple of years?

Mr. **Demmert**. I see substantial growth yet to come. There are 110 districts with Johnson-O'Malley contracts, and I would see some of those moving into tribal contracts as requests under Public Law 638 get first priority.

Mr. **Blouin**. So you anticipate growth, yet?

Mr. **Demmert**. Yes.

Mr. **Blouin**. What training are JOM parent committees receiving?

Mr. **Demmert**. Little, if any, from the Bureau. They would receive some incidentally as a result of practical experience, which is probably the best trainer.

Mr. **Blouin**. Do you think that we could combine the title IV and the JOM committees?

Mr. **Demmert**. There is language that allows title IV and Johnson-O'Malley parent committees to be combined.

Mr. **Blouin**. It allows them to be on their own volition. My question is, should it be directed to be the same parent committee?

Mr. **Demmert**. There is a potential conflict, and the potential conflict is that the definition of Indian under title IV, part A, is different from the definition of Indian under Johnson-O'Malley.

If you resolve that conflict, then there would be no problem. But until you resolve that conflict, there is a problem.

Mr. **Blouin**. Do you think that we should provide for some kind of technical assistance to parent committees, generally?

Mr. **Demmert**. I would like to answer that in two ways. One is, there is a substantial amount of evidence that tells us that just technical assistance does not work. It does not do the job.

There is also evidence that tells us that technical assistance geared to a particular situation, or technical assistance that is sought after by the particular group of communities is effective.

It tells me that, No. 1, we do need technical assistance money. No. 2, we have to be careful on how we use it to train.

Mr. **Blouin**. Assuming we can work out the limits on how it would be used, it would accomplish, in your opinion, a pretty decent purpose?

Mr. **Demmert**. Yes.

Mr. **Blouin**. I have two or three questions for Mr. Moore, then I will be happy to yield.

Let me first thank you on your assistance during our Oklahoma trip a couple of months ago. We put Mr. Moore literally through the paces in driving us literally through the State of Oklahoma.

As I understand it, your area still contracts with the schools for distribution of funds under JOM rather than the tribes. Why is that? In your opinion, does it work better than local contracts?

Mr. **Moore**. That is the way because that is the way that the Indians in eastern Oklahoma want it to be. They have voiced it through the tribal council of the tribes which are the prominent group in eastern Oklahoma.

It has advantages in doing it this way in that there is only one set of overhead. The percentage that goes for administration is lower, if you only have one contract. We think it works very well. We have not had any problems, at this time.

Mr. **Blouin**. What kind of program does your JOM support?

Mr. **Moore**. We have teacher aides, home-school aides, I think that those are the two most numerous. We have had tutors in hospitals at Talihina and Tahlequa who work with students who are confined for brief periods in the hospital.

Mr. **Blouin**. Can you tell us what a home-school aide is?

Mr. **Moore**. The aide works with the home and the school to facilitate the educational development of the child, whatever it is that is necessary to be done. If the child is a truant, or something, the aide will help get him back on track.

Another duty of the home-school aide is to help in the verification of the degree of Indian blood for the school.

Mr. **Blouin**. How helpful have they been?

Mr. **Moore**. Very good.

Mr. **Blouin**. How many do you have?

Mr. **Moore**. I am not sure about the number, 40 or 50, I think.

Mr. **Blouin**. Is that right?

Mr. **Moore**. I am not really sure on the number.

Mr. **Blouin**. Do any of the non-Indian children benefit from JOM programs?

Mr. Moore. Incidentally.

Mr. Blouin. How so?

Mr. Moore. The funds can be used to force desegregation, but at the same time it is not supposed to be spent on non-Indians. But if you have a native American in the classroom, I don't think that we would neglect to help a child, if we had the time, and that child would not have to be an Indian. That would be of benefit; is that what you are referring to?

M. Blouin. OK.

What assistance, if any, in your area, do the JOM parents receive?

Mr. Moore. We have training programs for them, which the contractor conducts with one of the colleges. We call them in for a couple of weeks, and give them some real good training to help them to perform their duties.

Mr. Blouin. Does it seem to be of benefit to them?

Mr. Moore. Yes.

Mr. Blouin. Do tribes receive any type of assistance similar to that in terms of understanding their contracting role, and so on?

Mr. Moore. Out of JOM and Public Law 93–638, yes?

Mr. Blouin. They would receive it through there?

Mr. Moore. Yes.

Mr. Blouin. Are there any public schools in your area that get JOM basic right now?

Mr. Moore. No, not right now.

Mr. Blouin. None have applied, is that true, for all of Oklahoma?

Mr. Moore. I don't know about all of Oklahoma, but it is true of eastern Oklahoma.

Mr. Quie. When we looked at this before, it seems like it varies around the country for JOM basic. On the bill, what we have attempted to do is to make sure that all the basic money comes out of 874. I get some feedback, however, that even this will not take care of some of the basic needs that are coming out of JOM right now.

What is your feeling, or your overall view of it?

Mr. Demmert. We have identified 27 schools in five States that need basic support. The average per pupil expenditure for those is between just under $100 and up to $1,400, depending on the State, and the State formula and the State foundation program, and the local contribution.

Mr. Quie. What State is up to $1,400?

Mr. Demmert. Nebraska. There are States like Alaska that provide up to 100 percent of the basic support of the school, and use their money for basic support of the school only.

Mr. Pressler. There are 7 schools in my area which are part of the 27 funded. Will they all receive the total allocation?

Mr. Demmert. They will receive the total one-third allocation at minimum, and some of them might go above that.

Mr. Quie. Back to my question. Even if the legislation that we have introduced goes through, and they still need it, it would now take care of it.

Mr. Demmert. The legislation as written would more than take care of it.

Mr. Blouin. You are assuming full funding, and that is a whale of an assumption.

Mr. DEMMERT. Let me qualify that. If section 2 were fully funded, it would take care of an amount necessary for all the 27 schools that we have identified as needing basic support as well as an extra amount for those that we have not identified on a needy basis.

Mr. BLOUIN. I have no more questions at this point.

Mr. QUIE. I would like to go into the formula, and see where we are to go. I don't know if you fell through the cracks, or where you went. I realize that Alaska needs more money because of the costs up there. But the disparity in the formula between States and the amount per child is bothersome to me.

I don't think that there is that much difference in the Lower 48 in the expenses reaching the supplemental programs for Indian children. I think that they need well qualified teachers that get paid well, and other programs need them.

I am back to you again on how you feel about the future, we ought to get something where there is a more equitable distribution per child?

Mr. DEMMERT. As you know, we have had several discussions on the appropriate formula for distributing Johnson-O'Malley supplemental support. At the last session we had, we invited some staff people from both the House and the Senate and looked at several options.

Then I sent a copy to the Education Committee of States, to Alan Alden who works on State foundation program formulae. As a result of those meetings, as I pointed out just before you came in, we were instructed to use the formula in 1978.

At that point, the acting commissioner decided to continue using that formula, unless we were instructed by legislation to use a different formula.

We have not published regulations in the Federal Register at this point for comments, but we probably will when we make some other adjustments to the language of those rules and regulations that we deem necessary.

Mr. QUIE. Could you list the options, for the record, if you would do that? I would like to see us do something that is more fair and equitable than you have done so far. I don't mean just fair and equitable for Minnesota. I mean fair and equitable for all children across the country.

Mr. DEMMERT. Would you like us to submit it, as well as explain it?

Mr. QUIE. You can explain it, and then you can submit the specifics of it later.

Mr. BLOUIN. Explain the various formulae. I understand that there are three or four different formulae that you have considered, and you settled on one particular one.

Mr. DEMMERT. I would like to do a little conferring here to bring myself up to date.

Mr. BLOUIN. Would it be easier if George explained it?

Mr. DEMMERT. Let me explain two of them, and if I have any troubles, I will have George explain the third.

The one that we use, we divide the weighting factor by using the State average per pupil expenditure. The weighting factor is the quotient obtained by dividing every State's cost of delivering education services by the lowest State's cost, except that in every State that is below the national average, we use the national average.

Am I clear?

Mr. Blouin. That is the one that you are using?

Mr. Demmert. That is the one that we are using, the State and national average. We have used it for the past 3 years.

The development for that started in 1972, and was finally put into rules and regulations in draft form in 1975, about 3 years ago.

In the other option, we use the quotient by dividing every State's cost of delivering education services by the lowest State's costs, except that in considering a State's cost of delivering education services, we do not go lower than 80 percent as opposed to the national average, or higher than 120 percent as opposed to using what that State is actually spending. That is the one that we refer to as the title 1 option.

Mr. Blouin. There are three of them.

Mr. Demmert. We ended up considering three. The third one was using the weighted factor.

Mr. Blouin. There was a straight per capita alternative that was pretty much shelved, that nobody was happy with?

Mr. Demmert. That is right.

The third option was the weighting factor, the quotient obtained by dividing every States' cost of delivering educational services by the lowest State costs. In other words, it sort of averages everything at the lower end of the scale as opposed to the middle of the scale, or allowing an extreme high.

So if we have a Sate that averaged $800 as the lowest State, that is the State that we would use for determining the averages for the weighted factor for the other States.

Mr. Blouin. What would be the hesitance about using a formula that would basically go the 80 to 120 percent route, and having an exemption from that formula for Alaska, and earmarking the specific cost of living factor to them, so they would receive what they would receive under the formula that you are going to go with?

Mr. Demmert. My greatest concern would be for those States that are below the national average, well below the national average, but I would have greater concern, even over that, for those States that were below the 80 percent because we would only be allowed to bring them up to the 80-percent level.

The greatest need, in most cases, is in the schools that are at the lower end of the scale. So if we limit them to the 80 percent, I think that we are not responding to the schools with the greatest need.

I think that the greatest problem is in States where the poor people are at the lowest end of the scale. The system we now use brings them up to the national average, at least. I think, in retrospect and looking at the year's debate over this issue, I am inclined to believe that the national average is the better weighting factor for schools below it than the 80-percent factor, which I recognize is not necessarily consistent with other ideas of fair and equitable systems.

Mr. Blouin. Let me say that I am not as far into this as Mr. Quie is, the formula development, but I do accept his basic premise that if Alaska, because of the cost of living—I do understand their problems, I think, a little bit—needs additional support, then we ought to earmark it for them.

That being done, except for the real high cost areas of the country, is it, then, in your opinion, that this formula best serves the needs of the Indian children nationwide, the formula that you have suggested, Alaska aside?

Do you still believe that this is the best approach?

Mr. Demmert. Yes, and the reason for that is, and I went into the reason why. It is very important to bring the lower cost schools up to the national average.

Then, looking at it from a completely different perspective, it provides an incentive to the States to spend more, something that I think is very important. We just think that it is very important to try to provide and stimulate more State aid, rather than less of it. That is the reason that we are doing it.

Mr. Quie. My concern with that theory, if it makes sense, is it strikes me that the States you are hurting the most are those that care the least about the quality of education within the State, based on their past history. Legislatively, do you think that it is going to be enough pressure to change that historical pattern?

Mr. Demmert. Most of the States are at the lower end of the scale. My impression is that even if we limit them to the 80 percent, attempting to provide them an incentive to put more money into it, they are not going to do it. The person who will be hurt will be the Indian student in the school. I may be wrong, but that is the impression I have.

Mr. Pressler. When I asked you about the seven schools in South Dakota receiving the final one-third basic payment, I was trying to get at whether these schools are going to be funded at the level they were promised, which in some cases is higher than a third.

Mr. Demmert. Let me answer you in a general sense. All of the schools will receive one-third, as they received last year.

Mr. Blouin. May I interrupt? Does that mean one-third factored up, based on the increased funding available?

Mr. Demmert. Yes.

Mr. Blouin. So, in effect, this one-third times two makes it two-thirds because you are, dealing with twice the funds.

Mr. Demmert. No.

Let me check something out to see that I am accurate. I understand that all of the schools are getting the one-third.

Mr. Blouin. Their assumed share of the $1.3 million.

Mr. Demmert. That is correct.

Then we are adjusting the $1.9 million to the 27 schools with the greatest need.

In direct response to the question of South Dakota, some of those schools will go down.

Mr. Blouin. Let me ask you something, are any of those 27 schools that are not getting any of that $1.9 million?

Mr. Demmert. All of those schools, there are some—

Mr. Blouin. The $1.9 million on top of the $1.3 million, are there any of those 27 schools that will not get any funds beyond the $1.3 million share?

Mr. Demmert. There are some.

Mr. Blouin. Are any of those schools in South Dakota?

Mr. Scott. There will be three schools in South Dakota.

Mr. Pressler. What does that mean, that they will remain at the one-third?

Mr. Scott. One school in South Dakota will receive what it got in fiscal year 1977, which was last year, which would be the one-third plus another one-third. So it will remain at the two-third level.

Three schools will receive in excess of the one-third, and three schools will remain at the one-third level.

Mr. **Blouin**. Would you give us, for the record, the name of those schools, so we can get the congressional map out.

Mr. **Pressler**. All of them.

Mr. **Scott**. Sisseton will remain at the two-third level. Todd County will be increased.

Mr. **Blouin**. Two-thirds plus.

Mr. **Scott**. Smee will have an increase. Wanbay goes up. McIntosh, and White River will only receive one-third. Wambay will be increased.

Mr. **Pressler**. That is the only one in my district.

Mr. **Blouin**. Wambay will be two-thirds and one on top.

Mr. **Scott**. The ones that are remaining at the one-third level, have assessed valuation that exceeds $25,000.

Mr. **Demmert**. In looking at the difference between what the State provides and what the local district provides, it was decided that this would cover the need.

Mr. **Blouin**. In those three schools, may I have the Indian enrollment, or the percentage of Indians in the total enrollment?

Mr. **Scott**. McIntosh has 30-percent Indian student enrollment. White River has 242 students with 51 percent.

Mr. **Pressler**. Were those three schools ever promised any more than what they will be getting?

Mr. **Scott**. No. There are only two schools that were assured of that, and those were Santee and Wambay. Those are the only two schools that were promised additional funds in fiscal year 1978.

Mr. **Pressler**. And they are going to get it.

Mr. **Scott**. Yes.

Mr. **Pressler**. Then they will be happy to be getting what they have been promised.

I seem to have understood that those three were promised that they would get some more. Somehow, I don't understand it.

Mr. **Blouin**. My understanding is that when the additional moneys were appropriated, the intent of many who were involved in that, I was not, so I can only speculate, the intent was that by jacking up funds from $1.3 to $3.2 million, effectively prorated out, give everybody last year's two-third level.

Evidently, the language was not specific enough, so there was more flexibility within BIA to perform this. It is either that, or there were other opinions as to what the intent was. In any event, it has been interpreted that BIA has the flexibility to direct those funds based on the need. Am I stating that correctly?

Mr. **Scott**. Yes.

Mr. **Pressler**. I think that we have gotten it.

I have another question here. Under section 5 of the act, the Secretary has the authority to revoke contracts. If the contract does not allow the parent committee to perform its duties, the Secretary can exercise his authority.

Mr. **Demmert**. Not to my knowledge.

Mr. **Pressler**. For those districts receiving JOM support moneys, what percentage of their total school budget from local, State, and Federal, what was the breakdown of each of them before JOM supplemental, title I, title VII, and so forth, that you have to submit?

I think that it would be very helpful if we could have that.

Mr. DEMMERT. We don't have it. We will have to submit that information.

Mr. PRESSLER. Could we get that?

Mr. BLOUIN. We would appreciate that information, for the record.

Mr. DEMMERT. It might take a little while to get it, if it is not immediately available.

Mr. BLOUIN. How much time do you think you would need?

Mr. DEMMERT. We will have to get the schools to cooperate. If they will not, we will have to go out there personally.

Mr. BLOUIN. I think that the information would be very, very helpful.

Mr. DEMMERT. It will take us 2 or 3 weeks.

Mr. BLOUIN. Do you anticipate any problems in getting all of this information, or is it just a question of time involved in the mails?

Mr. DEMMERT. It is manpower.

Mr. BLOUIN. If we can help you get that information, let us know. We will be happy to lend some staff time to it.

Mr. SCOTT. Good, we may call upon you.

Mr. PRESSLER. I have no further questions, Mr. Chairman. Thank you.

Mr. BLOUIN. Thank you for coming. We appreciate your answers and your patience.

Our next panel, for the sake of time, we will take those from Nebraska as well as those from Minnesota together on one panel.

Representing Macy Schools, Edward Cline, Omaha tribal chairman, Nebraska; Terrance Walters, education specialist, BIA Winnebago Agency; Mr. Roger Trudell, secretary, Santee School Board; Mr. Dick Tanner, Minnesota Chippewa Tribe; Mr. Roger Aitken, director, reservation business committee, Leech Lake, Minnesota; Mr. Jerry Buckanaga, director, Pine Point School, Minnesota.

If you would all come to the table, we will take you all together.

Mr. Quie is in conference with Mr. Leon Jaworski, and will not be back for a little while. To allow him time to get back, we thought that we would start with Nebraska, and move right on into the Minnesota people.

Mr. Edward Cline, why don't you start, and then we will go to Mr. Walters and Mr. Trudell.

We will, without objection, submit your entire statement into the record, and if you would like to summarize it, please feel free to do so. Please don't be so brief that you will miss any point that you want to make.

STATEMENT OF EDWARD CLINE, OMAHA TRIBAL CHAIRMAN, REPRESENTING MACY SCHOOL DISTRICT, NEBRASKA

Mr. CLINE. Mr. Chairman, we will omit some of our testimony, and we would like to have it included in the record.

[The prepared statement of Edward Cline follows:]

JOINT TESTIMONY OF THE
MACY, SANTEE, AND WINNEBAGO PUBLIC SCHOOLS IN NEBRASKA
TO THE
SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION
IN CONJUNCTION WITH THE
ADVISORY GROUP ON INDIAN EDUCATION OF THE
COMMITTEE ON EDUCATION AND LABOR
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

WITH RESPECT TO
OVERSIGHT HEARINGS ON INDIAN EDUCATION
ON JOHNSON O'MALLEY PROGRAMS

OCTOBER 5, 1977

RESPECTFULLY SUBMITTED BY:

Mr. Edward L. Cline
Treasurer of the Thurston
County Public School
District #16, Macy, NE

and

Roger Trudell
Secretary of the Knox
County Public School
District #C-5, Santee, NE

Members of the Committee, I am Edward L. Cline, Treasurer of the Macy School Board and Chairman of the Omaha Tribal Council. I thank you for the opportunity to speak on the issue concerning the funding of the Johnson O'Malley Program.

This testimony is the result of collaborated efforts between representatives of the Omaha, Winnebago, and Santee Sioux tribes of Nebraska and the three public school districts located on our Indian reservations.

Mr. Jon C. Wade, in testimony before this Committee, described the transition of Federal schools for Indian children to local public school districts by stating: "Over the past half century, and specifically since the 1950's, Federal policy has promoted and encouraged the enrollment of Indian children in public schools. To facilitate this policy, many Federal schools were closed or transferred to the public school district for use."

As a result of this act of transition, our local school districts who were recipients of such transfers came to rely on Johnson O'Malley monies for their basic operational support. The Macy school located on the Omaha Indian reservation and the Santee school located on the Santee Sioux Indian reservation are two of these schools. As a result of this transference policy, other public schools because of the Indian student enrollment became eligible for Johnson O'Malley basic operational support. The Winnebago Public School located on the Winnebago Indian reservation is one of these schools.

These three schools depend upon the allocation of Johnson O'Malley funding through the Bureau of Indian Affairs for basic operational support because other monies received are definitely not adequate to meet the basic educational needs of our Indian children. Our three schools are similar to Bureau of Indian Affairs "contract" schools in other states who are dependent upon complete 3100 Bureau of Indian Affairs monies for the basic operation of their schools.

There is presently a concern for developing a better educational program for our children. A program which speaks to the needs of the students, and is not, or should not be reflective of the wealth of the school district nor the relative wealth of the state. Without adequate funding for basic operational support, our three schools will not be able to provide a quality education for our children.

Therefore it is our opinion that basic operational support should be guaranteed to eligible school districts, and that the basic operational support by the Johnson O'Malley program should be reaffirmed as one of the cornerstones of our educational financial system. It is our opinion that the ultimate responsibility for the education American Indian because of historical fact, should be a shared responsibility, a partnership if you will, between the Federal Government and the States in which the children in question are residents.

There, seemingly, are groups of people who question why the Federal Government has any responsibility in the area of Indian education and especially Indian education in public schools.

We would like to answer this question from our standpoint in Nebraska. There are three public schools in Nebraska whose enrollment is predominately Indian. These three schools are located within the reservation boundaries of each reservation. Our reservations are checker-boarded with non-Indian and Indian land adjoining one another. Our school population ranges from approximately 88 to 98 percent Indian.

The treaties and executive orders that the United States have entered into with our tribes expressly obligate the United States to provide educational services to our tribes. The United States has the moral obligation to educate Indians based on the fact that it is primarily responsible for the existing condition of many Indians today because of the paternalistic attitudes and assimilation policies of the past.

The State of Nebraska under its present laws, is not capable of educating our Indian students without the involvement of Federal dollars. We would like to emphasize that the Education Department of the State of Nebraska ~~have~~ has been very cooperative and helpful to our Indian school districts in Nebraska since 1971. Our schools are receiving the maximum State funding under the State's present laws. Our attached exhibits prove that without Federal financial assistance, our schools would not be able to exist.

Congress in 1926 began more than eight years of debate on Indian education until the Johnson O'Malley Act became law in 1934. Even during this time of paternalism and assimiliation, the U.S. Government realized its responsibility and obligation for Indian education. This is evident through the records of Congressional hearings and testimony from 1926 through the present. The 1937 hearings state...

> "there are some states where there is no equalization law and the districts are still largely dependent on local taxation. Here, the Indian service must continue to assist with the actual cost of maintaining the schools as well as providing funds for the special services required for Indian children."

We are sure that you are aware of the provisions of the Johnson O'Malley Act in 1934 and its amendments up to 1975, however, we would like to emphasize several points. The amendments of 1936 allowed for the Secretary of the Interior to contract with...

> any state or territory, or political subdivision therof, or with any state university, college, or school, or with any appropriate state or private corporation, agency, or institution, for the education...of Indians in such state or territory, through the agencies of the state or territory of the corporations and organizations herein before named...(49 Stat. 1458, emphasis added).

The Indian tribes did not take advantage of this section because it was unknown ~~by~~ to most tribes and not advertized by the Department of Interior or those states who had the Johnson O'Malley contracts.

In September of 1971, the three tribes of Nebraska were instrumental in changing the Johnson O'Malley programs nationwide. We demanded that the Johnson O'Malley contract with the State be terminated and that the Secretary of Interior enter into a contract with the Nebraska tribes under the authority of the Johnson O'Malley Act amendment of June 4, 1936. As a result, we eliminated one bureaucratic institution but we still had to negotiate with the Bureau of Indian Affairs.

The Bureau of Indian Affairs has historically dictated the level of accreditation of our schools by not providing enough funding to allow us to achieve the highest possible standard of education for our children. This is in direct conflict with the law as stated in section three of the Johnson O'Malley Act...

> the Secretary of Interior is authorized to make the necessary rules and regulations, providing that the minimum standards of service are not less than the highest maintained by the contracting state.

The State of Nebraska has several accreditation classifications.

1. AA Accreditation (31 schools)
2. North Central Accreditation (145 schools)
3. Rule 11 or Standard Accreditation (170 schools)
4. Rule 14 minimum approval standards (863 schools of which 832 are rural elementary schools)

The Winnebago school is at the bottom of the standard accreditation (Rule 11) schools; the Macy school is in the upper minimum approval classification (Rule 14); and the Santee school is listed as minimum approved-conditional.

The Johnson O'Malley law states that the Federal Government should fund our schools in order for us to meet AA Accreditation. In 1975, the three tribes of Nebraska passed tribal resolutions that stated the minimum standards of education for their children would be North Central Accreditation or above.

In order for our schools to even maintain the lowest level of accreditation, we need assurances of continued, guaranteed basic operational support funding. In order to meet those standards which the Federal law dictates, we need additional basic operational support.

The Bureau of Indian Affairs has continually failed to apply the law in a uniform manner to all schools effected by allowing some school districts to achieve and maintain higher levels of accreditation than other school districts. In addition, the Bureau of Indian Affairs has not adhered to their own regulations by continually granting waivers to the criteria established in the regulations relative to being eligible to receive Johnson O'Malley basic support.

This is very evident when the Bureau of Indian Affairs used 3100 monies to assist 5 public school districts in South Dakota after they had requested a waiver to the P.L. 93-638 regulations. Our three tribes and schools requested a waiver of these regulations also but we were denied.

We would like to point out that with the present emphasis on education of handicapped children, and the Federal definitions of handicapping conditions of children who need special education and related services, it appears that another area of "hard" financial funding is needed if we are going to provide quality education to meet the needs of all children. Volume 42, No. 163, of the Federal Register, dated Tuesday, August 23, 1977 spells out that "free appropriate public education," meaning special education and related services is to be provided not later than September 1, 1978. ~~Under present arrangements with the~~ Nebraska State Educational Service ~~Unit~~ serving our schools, it is impossible to adequately meet the needs of the children who need special services, i.e. speech therapy, etc, since the professional special education personnel are only able to spend from 1-4 hours a week in each school. There [illegible] a backlog of referrals for psychological evaluations. There is a great need for additional personnel on the faculties of these schools. Such personnel would fill positions ~~relative to the special educational needs of their resident children~~. This is another reason for our recommending that basic operational support by Johnson O'Malley be re-evaluated and continued.

Mr. Maurice Rabenberg, Superintendent of the Sisseton, South Dakota school district included Congressman Larry Pressler's (R-SD) news release in his testimony before this committee last spring. We agree with Congressman Pressler's press release "In testimony submitted to the House Subcommittee on Interior appropriations, the South Dakota Congressman called for the restoration of Johnson O'Malley funding, arguing that many schools dependent on it lack adequate tax bases and are severely limited in their ability to raise tax revenues." We wish that the fact finding tour, ~~of~~ which Congressmen Pressler, Blouin, and Quie conducted, would have included our Nebraska schools. They would have also found that the Bureau of Indian Affairs has not practiced an equitable measure of allocating basic support funds to public school districts.

Since the Sisseton school was used in the press release, we would like to compare this school district with ours in Nebraska, and to point out the unequitable and unfair funding allocations. * Insert #1

SCHOOL	TOTAL STUDENTS	INDIAN STUDENTS	% INDIAN STUDENTS	TOTAL ACRES	TAXABLE ACRES	NON-TAX IND. LAND	ASSESSED VALUATION	JOM BASIC
Macy	403	398	99%	12,010	4,925	7,085	600,041	216,000
W'Bago	297	254	86%	40,868	24,047	16,821	2,457,230	48,000
Santee	80	78	98%	7,269	5,084	2,185	307,013	41,000
Total for Nebraska	780	730	94%	60,147	34,056	26,091	3,364,284	305,000
Sisseton	1560	604	39%	279,337	238,000	41,337	18,171,521	368,252

The testimony of Myron Jones, Director of Indian Education Training, Inc., has some valid information when he mentions some situations in Arizona and South Dakota. But what about those Indian schools in Nebraska, Iowa, and Minnesota and possibly other states which are Indian controlled, located on an Indian reservation with very few taxable acres within the school district. We signed off on the "Red Regs" with the understanding that unique school districts such as ours be accounted for. This assurance was verbally provided, but, when the "Red Regs" and final P.L. 93-638 regulations were published, there was no protection for our districts. In fact, when the P.L. 93-638 regulations came out for comment, the 1/3 reduction per year for three years of basic support was not even mentioned. When 93-638 became law and we received the final regulations the 1/3 reduction of basic support was included. We did not even have an opportunity to comment on them. Who included this reduction in the regulations without consultation of Indian people? This is against the complete philosophy of the law itself.

Of the 29 school districts who have indicated a need for basic support in 1977-78, 12 are from Arizona and seven from South Dakota. That does not necessarily mean that some of these schools do not need basic support funds or that all Indian impacted public schools do not need basic support assistance.

We understand that there is a move underway to remove the Johnson O'Malley program from the Department of Interior and place it under the Department of Health, Education, and Welfare; either by amending P.L. 874 or Title IV part A of the Indian Education Act. We are strongly opposed to this type of action. We recommend that the Johnson O'Malley basic support program remain with the Department of Interior, Bureau of Indian Affairs as this Bureau has been charged by Congress with the responsibility to assist Indian tribes. The

Congress recently elevated the position of the Bureau of Indian Affairs in the governmental structure by elevating the Commissioner of Indian Affairs to Assistant Secretary of Indian Affairs.

Before I go into our recommendations, I would like to relinquish the time to our representative from the Santee Sioux Indian reservation.

My name is Roger Trudell and I am a member of the Santee Sioux Tribe of Nebraska and Secretary of the Santee Public School Board of Education.

The goal of the Santee Sioux Tribe is to provide its youth and adults with the best education possible, and this goal has been re-emphasized often.

In 1971, the Santee School Board became completely Indian controlled and we have remained Indian controlled to the present day.

The Santee public school is now a K-12 school system educating 100 students of which 97 are Indian. Last year we operated a K-8 system and transported our senior high students to a neighbor district 15 miles away.

The Santee Tribe and community has worked very hard for the past six years to develop a school system that could educate all of our children. We now have a new 2.1 million dollar elementary facility completed in 1976 with the assistance of P.L. 815.

The Santee people once again have the major responsibility for the education of their children. Something we lost many years ago.

Ironically the largest single factor in our getting this school was because the non-Indian land owners in the school district filed a suit requiring our district be dissolved and consolidated with another non-Indian controlled district.

We lost the law suit in district court but have appealed that decision to the Nebraska Supreme Court. In the meantime, we asked the State of

Nebraska to waive its law requiring 100 high school students in order to start a high school. The State legislature said they would consider this action provided that the Bureau of Indian Affairs fund the difference needed to operate such a school after all other financial resources were accounted for. The Bureau of Indian Affairs provided that commitment after much deliberation and consideration.

It is important to mention that the school districts surrounding our district, supported our efforts in the law suit. Their statements for this support were because our district only consisted of 7,269 acres of land of which 2,185 acres are Indian owned, and that the revenue of $7,250 was not sufficient for them to educate our 100 students; these school districts did not have the room or facilities to accommodate our students; and in no way, could they afford the operational cost of our new facility if they used it as an attendance center. Our 100 students would not bring the percentage of Indian enrollment to the percentage required for them to receive Johnson O'Malley basic operational support.

The Santee people did not want to be forced into consolidation because of the following reasons:

1. Loss of local control of the education system.
2. A drop out rate of 76.3 percent of our students attending these other schools over the past ten years.
3. Transportation of our 100 children from 30 to 65 miles per day.
4. Loss of economy to our community which our school generates.

5. Continue to expose our children to the indifferent attitudes these communities have demonstrated in the past.

I can already relate many positive things that are happening now that we control our own school in our own community; 1. Our community has grown from approximately 120 people from 1970 to 430 in 1977; 2. Our school has grown from 11 students in 1970 to over 100 in 1977; 3. We have just completed 10 additional housing units and have been approved for an additional 40 housing units with construction to start in the near future. Clearly the school is the life blood of our small community. Our community, unlike most typical small non-Indian communities in the United States is going to continue to grow.

The United States Government, again, gave our Indian people a commitment to finance our educational system on the Santee Sioux Indian reservation.

Again, the Santee Sioux people have trusted the United States Government in the fulfillment of its commitment.

If this commitment is not fulfilled, what is the solution to the education of our Indian children?

Thank you for this opportunity to speak, I would now like to relinquish the remaining time to Mr. Cline, who will present our recommendations.

Mr. Cline

We would like to offer the following recommendations to the Committee.

1. Guaranteed funding of our schools at a level adequate to achieve maximum State accreditation as required by law. This funding should have built in funding increases to offset rising educational costs.
2. Place this funding on each tribes band analysis so that there is a guaranteed consistent funding level from year to year.

Our recommendation would assure our school districts of continual funding, and each school district will know in advance what the exact funding level will be. This will allow our schools for the first time in many years to develop a program based upon childrens needs, rather than a "hope the money arrives" philosophy which we have to operate under at the present time.

Our recommendations will save the U.S. Government millions of dollars. The Federal, State and local governments would continue to share this responsibility. If Johnson O'Malley basic support funding is eleminated, the Federal Government would have to pick up the total cost. Based on the Pierre Indian Learning Center's per pupil cost of $6,400[illegible] it would cost the Government $5,120,000[illegible] to educate our 800 Indian youth.

The above recommendations would also eliminate the "how to" questions that has plagued the U.S. Government the past few years.

The Johnson O'Malley basic support dilemma is not a new one to our three tribes and schools in Nebraska. Attached are tribal resolutions, recommendations from the Bureau of Indian Affairs Central Office staff, and position statements dating from 1975 when P.L. 93-638 became law to October of 1976. We would like you to review this material and other attachments because we have been pointing out the problems for over two years with no action taken upon our recommendation.

The United States Government is going to have to decide whether they are going to fund those schools who need basic support, or those schools who would like to have it. If you are going to fund those who would like to have it, then every school district educating an Indian child should be funded to the level that the school district is achieving maximum state accreditation.

Unless adequate funding is provided to our school districts, our students will have to leave the community to receive their education, because without adequate funding, we will have to close the doors to our schools.

There are no Bureau of Indian Affairs schools in Nebraska, the nearest one is located some 165 miles in distance. Adjoining districts do not want to absorb our students for a variety of reasons as evidenced by the recent law suits concerning the annexation of School District C-5 Santee, Nebraska, referred to earlier by Mr. Trudell. Perhaps it is because of non-taxable land or perhaps because of our brown skin. Who can say for sure?

It would be of considerable financial advantage to the Government to adequately fund the Johnson O'Malley programs for our three public school districts. If the Government chooses not to do so, they will have to incur ~~in~~ the cost of transportation, housing, and education of an additional 800-900 Indian students. Perhaps even more costly than that, would be the human cost in the breaking up of many family units and the destruction of the central core of our communities. Besides, the Government, through legal statutes and treaties, has an obligation to provide the costs of a total educational program for Indian youngsters.

In parting, I would remind you that through the passage of P.L. 93-638 on January 4, 1975 "Congress reaffirmed the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

"Congress declared that a major national goal of the United States is to provide the quanitiy and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well being."

I would urge you to seek input and involvement of local Indian tribes in any affairs that affect them even though others in authority may urge you to do otherwise as evidenced by the absence of tribal leadership testifying in these proceedings.

I thank you for the opportunity to speak before this committee. I am confident that in your final analysis, you will see the need for the continuation of funding for schools in our unique situation.

Additional Facts

1. The three school districts and the tribes are in total co-operation with this effort to save their schools.
2. Make up of School Boards

Macy	Six members, five are Indian Indian Superintendent
Winnebago	Six members, two are Indian Indian Superintendent Indian Advisory Board
Santee	Three members, all Indian Non-Indian Superintendent

3. H.U.D. has approved 90 new houses for the Winnebago and Santee reservations and an unknown number for Macy. This will generate a significant increase in Indian enrollment in the three schools and further decrease the taxable land base of the districts. These new homes will be completed by the end of next school year.
4. The three districts have just completed three new schools with the assistance of P.L. 815.

Macy	$2,961,000.00
Winnebago	2,321,500.00
Santee	2,200,000.00
Total	$7,482,500.00

Basic maintenance and operation of our school plants have tripled because of these new facilities and continue to skyrocket.

5. Growing Federal requirements in the areas of transportation, special education and higher standards will assist in closing these schools if adequate funding sources are not established.

Johnson O'Malley Position Statement

October 8, 1976

Attached are Tribal resolutions and correspondence dating back to April 1975 concerning the Johnson O'Malley program, the financial status of the schools involved, and how the P.L. 93-638 regulations are creating an impossible financial burden on the three public school districts which educate the children on the Omaha, Winnebago, and Santee Sioux reservations.

Not one of these resolutions or requests for assistance have been acted upon or even acknowledged by the Bureau of Indian Affairs. The Aberdeen Area Office informs us that the Central Office will have to act upon these requests and that all the material has been forwarded to the Central Office for their action. We have not received any acknowledgement from the Central Office even after we used Tribal funds to travel to Washington on May 27, 1976 and explained our desperate situation to the Deputy Commissioner.

Our school budgets were forwarded to the Central Office over a month ago to point out our financial crisis along with a letter from the Area Office requesting action. Mr. Jon Wade forwarded the attached memorandum to the Central Office on 09-22-76 recommending funding based upon the Aberdeen Area Office memorandum.

Public Law 93-638 did not take into account what these regulations would do to school districts such as ours and did not provide any alternatives or funding outlets for such districts. Our school districts are all receiving maximum state aid and other Federal program monies but we have no tax base on which to levy a mill levy adequate to operate our school systems. We have always had problems with the inconsistency of Johnson O'Malley funding because of political influence of other tribes and other states and the inconsistent allotment funding levels. We have had to either fly to Washington or Aberdeen with resolutions requesting additional Johnson O'Malley monies for the past seven years.

As a result of P.L. 93-638, this financial crisis is not a one year problem, but is going to get worse and if not rectified immediately, we will have to close our schools and turn them back to the Bureau to operate. We are requesting that the Bureau of Indian Affairs put a special add-on to each tribes 3100 series in an amount adequate to operate each school. We can get by this year with the increase of funds as recommended by Jon Wade's memorandum of 09-22-76. However, the band analysis add-on will have to take into account for guaranteed future funding in the 3100 series in order to operate these schools. In this way we will still have state aid, 874, and other funding available and will be of less cost to the Bureau than if we close our doors and turn the schools back to the Bureau of ship 900 students off to off-reservation boarding schools.

RESOLUTION
OF THE
SANTEE SIOUX TRIBE OF NEBRASKA

COPY COPY

WHEREAS, the Santee Sioux Tribe of Nebraska is a Federal Corporation chartered under the Act of June 18, 1934 (48 Stat. 984) as amended, and

WHEREAS, The Santee Sioux Tribe has the responsibility of contracting for financial assistance to meet the educational needs of its Indian children, and

WHEREAS, Part 33 of Subchapter E, Chapter I Title 25 of the code of Federal Regulations, Paragraph (2) (IV) states that there must exist at least 70% eligible Indian enrollment within the school district before operational expenses may be authorized, and

WHEREAS, it is understood that within the Aberdeen Area at least 5 school districts have requested and received waivers to the condition of at least 70% eligible Indian enrollment, and

WHEREAS, the funding level appropriated for the Aberdeen Area has never been adequate enough to meet the educational needs of its Indian children, and

WHEREAS, when the eligibility requirements for operational expenses are waivered for certain school districts then it is inherent that these districts who meet the eligibility requirements must suffer the consequences of not receiving enough operational expenditure monies to operate their respective school districts.

NOW THEREFORE BE IT RESOLVED, that the Santee Sioux Tribe of Nebraska cannot, in its own good conscience, condon the action of the Bureau of Indian Affairs in waivering parts of the Educational Assistance regulations covering operational expenditures for certain school districts within the Aberdeen Area when this action takes operational expenditure money away from the school district on the Santee Sioux Reservation which meets all the requirements for eligibility for operation expenditures and has been provided a grossly inadequate amount of operational expenditure money to meet its educational needs for our Indian children.

CERTIFICATION

This is to certify that the foregoing Resolution was considered at a regular meeting of the Santee Sioux Tribal Council of the Santee Sioux Tribe of Nebraska, held on the 15 day of April, 1975, and was adopted by a vote of 8 for and 0 against and 4 absent.

Dated this 15 day of April , 1975.

This is to certify that this is an authentic copy of the original correspondence.

9/21/77

COPY COPY

RESOLUTION
OF THE
SANTEE SIOUX TRIBE OF NEBRASKA

WHEREAS, the Santee Sioux Tribe of Nebraska is a Federal Corporation chartered under the Act of June 18, 1934 (48 Stat. 984) as amended, and

WHEREAS, the Santee Sioux Tribe of Nebraska has entered into Buy-Indian Contracts for the Public School Assistance Program (JOM) the past three years to meet the educational needs of its children, and

WHEREAS, the Bureau of Indian Affairs has reduced the amount of available funds $17,000.00 in FY 75 and if Basic Support remains the same, $16,000.00 in FY 76 for a total reduction of $33,000.00 in the past two years, and

WHEREAS, the allocation of funds from the Bureau of Indian Affairs has never been adequate to meet the educational needs of our children, and

WHEREAS, our school districts enrollment is rapidly increasing; the Santee District C-5 will be moving into a new 2 million dollar school PL. 815 school facility in December of this year; the cost of education has been increasing steadily, and

WHEREAS, the J.O.M. allocations have been reduced significantly the past two years and has never been adequate, and

WHEREAS, PL. 93-638 will reduce our allocation significantly in FY-77 as per the present JOM regulations which will make it financially impossible to operate an adequate education program, and

WHEREAS, the Bureau of Indian Affairs has the legal and moral responsibility for the education of the Santee Sioux children.

NOW THEREFORE BE IT RESOLVED, that the Santee Sioux Tribe of Nebraska request that the Bureau of Indian Affairs area and central office set up a meeting immediately with the Santee Sioux Tribe to explain the cooperative school concept and if so determined by the Tribe at that time, start actions necessary to implement this concept by January of 1976.

CERTIFICATION

This is to certify that the foregoing Resolution was considered at a regular meeting of the Santee Sioux Tribal Council of the Santee Sioux Tribe of Nebraska held on the 4 day of Sept, 1975 and was adopted by a vote of 7 for and 4 absent and 0 not voting.

Dated this 4 day of Sept., 1975.

This is to certify that this is an
authentic copy of the original correspondence

Notary public Neb. 9/30/77

RESOLUTION NO. [illegible]

RESOLUTION
OF THE
SANTEE SIOUX TRIBE OF NEBRASKA

WHEREAS, the Santee Sioux Tribe of Nebraska is a Federal Corporation chartered under the Act of June 18, 1934 (48 Stat. 984) as amended, and

WHEREAS, the Santee Sioux Tribal Council is empowered to negotiate with Federal, State, and local agencies in matters which affect the physical, social, economic and educational development of the Santee Sioux Tribe and its members, and

WHEREAS, the Santee Sioux Tribal Council is deeply concerned about the futur operation of the educational institution located on our reservation and serving our Indian children, and

WHEREAS, under Public Law 93-638, Sub-Part C, Funding Provisions 273.31, operational support will be reduced by one-third over the next three fiscal years which is based on the operational support received in fiscal year 1976 and

WHEREAS, fiscal year 1976 operation support received by the Santee Elementary school C-5 was not adequate to meet our educational needs, and

WHEREAS, in the case of Santee's School District C-5 which has a 99% Indian enrollment and practically no tax base, operational support is a permanent necessity for the operation of our public school, and

WHEREAS, The Federal Government is responsible for the education of our Indian children, and

WHEREAS, the general expenditures for the operation of our school is correlated with the school enrollment, and

WHEREAS, the taxable base of our school district is limited due to the virtue that most of it is non-taxable Indian land, and

WHEREAS, the cost of operation of our school has grown astronomically from year to year.

THEREFORE BE IT RESOLVED, the Santee Sioux Tribal Council calls upon the Commissioner of the Bureau of Indian Affairs, the Congress of the United States and the Secretary of the Department of the Interior to:

(1) Waiver, for the Santee Sioux Tribe of Nebraska, the Support C. 273.31 of Public Law 93-638 in that its operational support will not be reduced by 1/3 for the next three years, and

(2) To increase this operational support to meet the educational need of the Santee School District C-5*

*so that the Santee School District can meet a level of accreditation equal to North Central accreditation.

This is to certify that this is an authentic copy of the original correspondence.

9/30/77

(3) Draft some type of legislation that will provide permanent, future operational support for school districts like Santee, so that they may continue to operate as a public school.

THEREFORE BE IT FURTHER RESOLVED, that if the funds for operational support are not waivered and increased to permanently meet the educational needs of our school children then we will not be held liable for being unable to meet state minimum standards.

CERTIFICATION

This is to certify that the foregoing Resolution was considered at a regular meeting of the Santee Sioux Tribal Council of the Santee Sioux Tribe of Nebraska held on the 16 day of Febr., 1976 and was adopted by a vote of 8 for and 0 against and 3 absent.

Dated this 16 day of Febr., 1976.

This is to certify that this is an authentic copy of the original correspondence.

8/30/77

COPY COPY COPY

Resolution No. 76-33

WHEREAS, The Omaha Tribe of Nebraska is a Federal Corporation under the Act of June 18, 1934, (Stat. 984) as amended and,

WHEREAS, The Indian Self-Determination and Education Assistance Act (P.L. 93-638) section 273.31 (a) states that supplemental and operational (Basic Support) funds will be apportioned among the States on a substantially equal basis, based upon the number of eligible Indian students, however, the amount of operational support each year in FY 77 and FY 78 will be equal to that contractors prior year allocation reduced by one-third of its FY 76 operational support allocation. Further in FY 77 no State shall receive less than 75% of the supplemental program assistance they received in FY 75, and

WHEREAS, There was no mention of this reduction of funds in the September 4, 1975 regulations which were sent out for Tribal and Indian education personnel imput, and

WHEREAS, The Johnson O'Malley funds have constituted approximately 50% of the support to the Macy Public School and each year has been significantly reduced, and

WHEREAS, The Macy Public School is 98% Indian with an Indian controlled School Board, and

WHEREAS, The P.L. 93-638 regulations will force the Macy Public School to shut down because of a lack of funds.

NOW THEREFORE BE IT RESOLVED, that the Congress of the United States and Bureau of Indian Affairs adhere to the actions requested by the attached resolution of the Macy Public School District Board of Education, and

BE IT FURTHER RESOLVED, that the Bureau of Indian Affairs provide the Omaha Tribe and Macy Public School technical assistance in examining the advantages or disadvantages of a cooperative school system.

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CERTIFICATION

This is to certify that the foregoing Resolution was considered at a meeting of the Omaha Tribal Council of the Omaha Tribe of Nebraska, duly called and held on the 18th day of February, 1976 and was adopted by a vote of 5 for and 0 against with 1 not voting. A quorum of 5 was present.

Dated this 18th day of February, 1976.

/s/ Wilson Wolf, Sr.
Wilson Wolfe, Sr., Secretary
Omaha Tribal Council

/s/ Edward L. Cline
Edward L. Cline, Chairman
Omaha Tribal Council

/s/ Willis Kroger
Acting Superintendent, Winnebago Agency

This is to certify that this is an authentic copy of the original correspondence.

9/30/77

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Commissioner of Indian Affairs
Bureau of Indian Affairs
1951 Constitution Ave., NW
Washington, D.C. 20245

Dear Commissioner Thompson:

I have enclosed a copy of Winnebago Tribal Council Resolution No. 76-30 for your review and action.

We have forwarded this resolution through the appropriate B.I.A. channels and also our Congressional delegation.

We are asking your assistance in helping us resolve the extreme financial hardship that these regulations have imposed upon our school district and Winnebago Indian people.

Sincerely,

Louis LaRose, Chairman
Winnebago Tribe of Nebraska

Enclosure

This is to certify that this is an authentic copy of the orginal correspondence.

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RESOLUTION
of the
WINNEBAGO TRIBE OF NEBRASKA

Resolution No. 76-30

WHEREAS, The Winnebago Tribe of Nebraska is a Federal Corporation organized pursuant to Section 16 of the Act of June 18, 1934 (48 State. 984) (25USC 476) as amended by the Act of June 15, 1935 (49 Stat. 378), and

WHEREAS, The Indian Self-Determination and Education Assistance Act (P.L. 93-638) section 273.31 states, "Funds for both supplemental programs and operational support shall be apportioned among the States on a substantially equal bases, based upon the number of eligible Indian students for whom funds are sought, with allowances being made for the actual cost of delivering educational services in each State; except that, any State or contractor who meets criteria in this Part and received operational support in FY 1976 may continue to receive such funds in FY 77 and FY 78 in addition to those described above. However, the amount of such assistance each year will be equal to that State or contractor's prior year operational support allocation reduced by one-third of its FY 1976 operational support allocation. Further, in FY 1977 no State shall receive less than 75%," and

WHEREAS, This section of P.L. 93-638 creates an extreme hardship on the operation of the Winnebago Public School whose enrollment is 89 per cent Indian, and

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This is to certify that this is an authentic copy of the copy of the original correspondence.

4/30/77

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WHEREAS, When the September 4, 1976 P.L. 93-638 proposed regulations were sent out for our comments, there was no mention of a reduction in operational support in order that tribes and Indian people could comment or have any input into that section, and

WHEREAS, This section of 93-638 creates a disastrous situation for the future education of Indian students in the Winnebago Public Schools, and

WHEREAS, Johnson O'Malley allocations have been sporadically doled out in the past and each year significantly reduced, (see attached chart), and

WHEREAS, In section 273.31 (c), the Commissioner of Indian Affairs may make exceptions to the provisions to paragraphs (a) and (b) of Part 273.31.

NOW THEREFORE BE IT RESOLVED: That the Commissioner of Indian Affairs grant a waiver to the regulations set forth in section P.L. 93-638 Section 273.31 (a) & (b) to eliviate the immediate financial burden of the Winnebago Public School for FY 1977, and

BE IT FURTHER RESOLVED, THAT in order to eliviate the future financial problems that will exist as a result of Section 273.31 of P.L. 93-638, that the Congress of the United States and the Bureau of Indian Affairs work out special legislation to meet the long-range funding needs of unique school districts such as ours that these regulations have a

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copy of the original correspondence.

[illegible] Supt.
[illegible] 9/30/77

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diverse effect upon; that the Bureau of Indian Affairs establish a School Funding Commission which involves tribal members, Indian School Board Representatives, State officials, and interest groups to consider amending Part 273 to provide funding for unique school districts; that the Bureau of Indian Affairs work with the Winnebago Tribe and School Board to examine the advantages and disadvantages of a Cooperative School System, and

BE IT FURTHER RESOLVED, That the Commissioner of Indian Affairs remove the requirement of meeting "Minimum State standards" and substitute North Central Accreditation levels due to the fact that the minimum State Standards in Nebraska in our estimation are considerably lower than what we want for our children.

CERTIFICATION

We, the undersigned officers of the Winnebago Tribal Council, certify that on the 18th day of February, 1976, the Winnebago Tribal Council voted to adopt the above resolution by a vote of 4 for and 0 against.

DATED THIS 18th DAY OF February, 1976.

ATTEST: /s/ Willis Kroger
Acting Superintendent
Winnebago Agency

/s/ Ramona Wolfe
Vice Chairman

/s/ Neola E. Walker
Secretary

This is to certify that this is an authentic copy of the original correspondence.

[illegible] Daniel L. Ross, Supt.
Macy [illegible] 5/30/77

Director, Office of Indian Education Programs

Chief, Division of Educational Assistance

Committment to Financially Assist Three (3) School Districts in Nebraska

This is in response to the Aberdeen Area Office's request regarding the financial situation of three(3) Nebraska Public Schools. It is my understanding that Deputy Commissioner, Mr. Harley Frankel did make a committment to support these three (3) public schools in FY 1977 from funds other than Johnson-O'Malley Program support.

Through conversations with Winnebago Agency and the Aberdeen Area Office and my own knowledge of the situation, I recommend that additional funds in the following amounts be made available to the three (3) public school districts:

Santee................................	$ 20,000
Winnebago..............................	$ 50,000
Macy...................................	$100,000

It is my recommendation that further indepth analysis be made of the three (3) public schools to determine the appropriate funding level. It is also important that firm criteria and standards be adopted by the Bureau of Indian Affairs for the purpose of determining these appropiate levels.

I continue to recommend consideration of the position paper transmitted to your office by memorandum dated April 9, 1976 as the basis for considering such a program.

If you should have any questions, please do not hesitate to contact this office.

Jon C. Wade

Enclosure
Surname-Div. of Educ. Asst.
Chron 500 IERC
Director's RF
Mailroom
Desk Copy

JCWADE:JC 9/22/76

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[illegible] Supt
Macy Public Sch. 4/13/77

OPERATIONAL SUPPORT OF PUBLIC SCHOOLS EDUCATING INDIAN CHILDREN

Premise:

(1) It is the desire of the United States Federal Government through the Bureau of Indian Affairs to assist public school districts located on Indian reservations and educating substantial numbers of Indian students to provide an adequate educational program for its students.

(2) It is recognized that a State minimum program is not the goal of the Government for these children, and

(3) Any program of assistance to any such public schools is not an entitlement, but is based on the following criteria:

To request assistance for operational support, a public school district shall be required to establish as part of its proposal that
(1) It cannot support an educational program, excluding categorical compensatory programs, comparable to other schools in the State or immediate region which have a similar enrollment and isolation condition. Also, any program that is supported by contract funds must be compatible with available facilities.

Effort should be made to translate that educational program into dollars, with a maximum allowance of 125% of the cost in the comparable schools.

For comparability purposes, a minimum of three schools should be selected.

(2) It must clearly identify the educational program it will maintain in the absence of contracted funds.

The school will, also, clearly identify those additional programs it wishes to maintain if contract funds become available.

As an integral part to awarding a contract, it is necessary and essential that the Indian Education Committee approve the application for assistance and agree with those additional programs to be maintained with contract funds.

(3) It has made a reasonable tax effort with a mill levy at least equal to the State average in support of educational programs.

(4) It has fully utilized all other sources of financial aid, including all forms of State aid and Public Law 874 payments. The State aid contribution per pupil must be at least equal to the State average.

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9/30/77

(5) It has made a good faith effort in computing State and local contributions without regard to contract funds pursuant to this part.

Adjustments in the level of contracted funds may be made at the end of the contract period if anticipated resources from other sources are greater than extimated.

Limitations:

Contract funds shall not be used (1) to meet deficits incurred by the district in a prior year, (2) as payment for capital outlay, or (3) as payment for debt retirement expenses.

Priorities:

Appropriated funds will be allocated in the following priority:

First - all school districts whose Indian enrollment exceeds 75% of the total school enrollment

Second- all school districts whose Indian enrollment exceeds 50% of the total school enrollment and are not ranked in the first priority

Third - all school districts whose Indian enrollment exceeds 25% of the total school enrollment and are not ranked in the first or second priority.

If appropriated funds are insufficient to fund all the school districts requests within any one category, priority within each category will be given to school districts in rank order from the highest percentage of Indian enrollment to the lowest.

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Supt

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From: George D. Scott

Subject: Macy, Winnebago, Santee Public School Districts - Nebraska
Meeting with Area, Agency, and School Officials on December
7 thru 9, 1976

On December 7-9, 1976, I participated in meetings with Jim Ross (Aberdeen Area Office), Terrance Walters (Winnebago Agency), and the School Board and School Officials for each of the above schools.

Macy (K-12), Santee (K-8), Winnebago (K-12) are public schools located in the North~~west~~East corner of Nebraska. The area comes under the field service of the Aberdeen Area Office and the Winnebago Agency.

Santee

Santee is an elementary school (K-8), Class I, with an enrollment of 71 students, of which 65 are Indian (91.5%) and 6 are non-Indian (8.5%). The school district has a total assessed valuation of $307,013 of which $6,060 can be generated for school support. The state average tax levy for a Class I school in Nebraska is 12.0, the local mill levy for Santee is 19.55 (7.55 mills above state average). State aid per/student is $274.13 (state average is $98.82). The average annual cost per pupil ADM was $2,302.58 for last year. In the initial review the per pupil costs look very high compared with the state average of $1,213.40 (75-76 school year), but when compared with other school districts, cost correlations are significant. For example, Parental Cost is usually absorbed by parents but at Santee the school picks up the total cost. The small enrollment at Santee also distorts the per pupil cost. From P.L. 81-874 the district receives $30,779 ($410.36 per/student). Basic support from

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JOM is $41,333 for this year; next year it will be reduced to $20,666 and in 78-79 school year it will be reduced to zero. Total allocation from JOM, including supplemental, is questionable at this time, depending on which distribution formula is adopted. We don't know what the consequence will be. We do know that this year the supplemental was reduced 25% due to the 75% Hold Harmless clause; next year there is good indication that this may be reduced as much as $100 per student. Another problem with basic support is that funds were not provided during the transition quarter, which penalized the district for three months.

The basic problem with Santee is the low assessed valuation which in turn generates less money for basic operation.

The property tax is being assessed 7.55 mills over the state average and another factor is that the property owners are transferring their property to the next district and the tribe is buying property and transferring it to tax exempted status. Therefore, in the future we can safely predict that assessed valuation will be reduced accordingly, thus having less funds for basic operation. Santee was constructed with P.L. 815 funds and is new; therefore, their capital outlay is very low, but in the future this will increase substantially.

Macy

Macy operates a school with grade levels K-12, with an enrollment of 416 of which there are 409 Indians (98.6%), and 7 non-Indians (1.4%). Macy is a Class II school with assessed valuation of $626,749; the district has mill levy of 32.23 and the state average is 40.5. State basic aid

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is $349.39 per pupil making it the highest in the state. Basic aid from JOM was $144,000 for 12 months but the school received no transition support. Next year this will be reduced to $72,000. The cost per student is $1,856.73 and this has a positive correlation that as enrollments increase the cost per student decreases.

Although the tax levy is below the state average the extra funds that could be generated from the 8.27 mills would not be significant. In fact as more tribal land and property tax on vehicles becomes exempted, funds for basic support from tax levy will decrease.

Capital outlay is relatively small now since the facilities are new and were constructed under P.L. 815 funds. But again the capital outlay will increase substantially in the future.

Winnebago

Winnebago operates a school with grade levels from K-12 and a total enrollment of 270. The total enrollment includes 240 Indian students (88%) and 40 non-Indian students (12%). The school is a Class III district with assessed valuation of $2,457,230; the mill levy for the district is 48.06; and the state average is 44.4 mills. The state aid per student is $277.22, making it the highest in this class (the state average is 166.88). Basic aid from JOM is $32,000 and $16,000 can be expected from this source next year.

As is indicated in the above all three school districts have a number of common problems. First, all three school districts have a very low

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assessed valuation, meaning that revenues coming from local wealth is significantly low. Second, the districts have an enrollment of 88% Indian students or greater. Third, these districts do not have the revenue to adequately support their basic school operations. Fourth, assessed valuation is expected to be reduced in the future as tribal lands and property tax on vehicles become tax exempted. Fifth, the districts are faced with a decrease in school operation funds as JOM basic support is eliminated. And above all, all three school boards and tribal governments express their support to remain a public school district.

In reviewing the finances of the three schools we find that Santee and Winnebago's local tax levy exceeds the state average. The exception is Macy, where the tax effort is less than the state average by 8.27 mills. Ironically, even if the district was levyed at the state average the revenue generated would not be significant. We find basic state aid to be the highest in the state. The revenue from P.L. 874 is at the maximum. With local, state, and P.L. 874 providing the maximum basic support the districts are still in need of $170,000 basic aid to see them through the school year. If the extra $170,000 cannot be located, then the schools will be forced to cut programs.

First Priority - To locate the extra $170,000 for the schools so they may continue their normal education programs for the rest of the year.

Second Priority - Find a solution to how we can best provide assistance to public schools in these situations. Otherwise, we will be faced with

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the same problem on a continuing basis. If we maintain the same program for all three schools they will need approximately $220,000 basic support from JOM next year. Disagree w/ the 220,000

1) Put the basic support funds in the band analysis under 3100 so that the Area and Agency would know what their share will be.
2) Ask for appropriation language to include basic support funds in each years request. Criteria for eligibility would have to be set up.
3) Ask for new legislation to support public schools in need of basic support. This would take longer, but legislation may be the guarantee that is needed.

A number of questions were raised and points expressed.

1) Why weren't basic support funds allocated for the transition quarter?
2) Why were extra funds provided for schools in South Dakota with enrollments way less than 70%?
3) According to area figures there is approximately 3M of JOM funds unaccounted for.
4) The school districts need to know their tentative allocation by the March 30 prior to the beginning of the school year so that teacher contracts can be signed.
5) The JOM formula should adhere to certain criteria so that equity can be obtained.

The concept of equity should adhere to both the educational needs and the school district's tax-paying ability when distributing JOM funds. A

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concept of objectivity and standard procedures must be utilized in distributing the funds to the recipients. Also, a concept of predictability must be used so that the recipient can or know the amount of revenue to be received. It is apparent that the wealth of the district must be taken into consideration in the allocation of JOM funds.

Suggest that we use some type of variable flat grant system. In this approach, variable amounts per unit of need are allocated to local school districts which reflect necessary variations in unit cost. Unit costs can be determined by the derivation of cost differentials based on the educational needs of Indian pupils. The variation in fiscal needs among districts, such as size of the Indian pupil population and isolation factors, can be taken into consideration before the allocation of funds. This approach takes into consideration the variations in educational needs of the Indian pupils and is relatively simple to administer. Also, the variable flat grant lends itself to additional sophistication in the determination of the variation of educational and fiscal needs of Indian pupils.

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TABLE I: Class, Enrollment, Tax Levy, State, Local, Federal Revenues, Per Pupil Cost For Santee, Macy, Winnebago School Districts - Nebraska. 1976-77

	Class	Indian Enrollment / Non-Indian	Assesed Valuation	Local Mill Levy	Average State Mill Levy	State Basic Aid	Average State Basic Aid	JOM Basic	JOM Supplemental	P.L. 81-874	Per/pupil Cost
MACY K-12	II	409 / 7	$626,749	52.23	40.5	$349.39	$110.39	$144,000	133,297	216,641	$1,456.73
WINNEBAGO K12	III	240 / 40	2,457,230	48.06	44.4	277.22	166.38	$32,000	71,910	166,000	2,018.54
SANTEE K-8	I	65 / 6	307,013	19.55	12.0	274.13	98.82	41,333	31,192	64,000	2,302.58

Mr. CLINE. Mr. Chairman, I am Edward Cline, treasurer of the Macy School Board and chairman of the Omaha Tribal Council. I thank you for the opportunity to speak on the issue concerning the funding of the Johnson-O'Malley programs.

This testimony is the result of collaborated efforts between representatives of the Omaha, Winnebago, and Santee Sioux Tribes of Nebraska and the three public school districts located on our Indian reservations.

Mr. Jon C. Wade, in testimony before this committee, described the transition of Federal schools for Indian children to local public school districts by stating:

> Over the past half century, and specifically since the 1950's, Federal policy has promoted and encouraged the enrollment of Indian children in public schools. To facilitate this policy, many Federal schools were closed or transferred to the public school district for use.

As a result of this act of transition, our local school districts who were recipients of such transfers came to rely on Johnson-O'Malley moneys for their basic operational support. The Macy school located on the Omaha Indian Reservation and the Santee school located on the Santee Sioux Indian Reservation are two of these schools.

As a result of this transference policy, other public schools, because of the Indian student enrollment became eligible for Johnson-O'Malley basic operational support. The Winnebago Public School located on the Winnebago Indian Reservation is one of these schools.

These three schools depend upon the allocation of Johnson-O'Malley funding through the Bureau of Indian Affairs for basic operational support because other moneys received are definitely not adequate to meet the basic educational needs of Indian children.

Our three schools are similar to Bureau of Indian Affairs "contract" schools in other States who are dependent upon complete 3100 Bureau of Indian Affairs moneys for the basic operation of their schools.

There is presently a concern for developing a better educational program for our children. A program which speaks to the needs of the students, and is not, or should not be reflective of the wealth of the school district nor the relative wealth of the State. Without adequate funding for basic operational support, our three schools will not be able to provide a quality education for our children.

Therefore, it is our opinion that basic operational support should be guaranteed to eligible school districts, and that the basic operational support by the Johnson-O'Malley program should be reaffirmed as one of the cornerstones of our educational financial system. It is our opinion that the ultimate responsibility for the education of American Indians, because of historical fact, should be shared responsibility—a shared partnership, if you will, between the Federal Government and the States in which the children in question are residents.

There, seemingly, are groups of people who question why the Federal Government has any responsibility in the area of Indian education, and especially Indian education in public schools.

We would like to answer this question from our standpoint in Nebraska. There are three public schools in Nebraska whose enrollment is predominantly Indian. These three schools are located within the reservation boundaries of each reservation. Our reservations are checkerboarded with non-Indian and Indian land adjoining one another. Our school population ranges from approximately 88 to 98 percent Indian.

The treaties and executive orders that the United States have entered into with our tribes expressly obligate the United States to provide educational services to our tribes. The United States has the moral obligation to educate Indians based on the fact that it is primarily responsible for the existing condition of many Indians today because of the paternalistic attitudes and assimilation policies of the past.

The State of Nebraska under its present laws, is not capable of educating our Indian students without the involvement of Federal dollars. We would like to emphasize that the Education Department of the State of Nebraska has been very cooperative and helpful to our Indian school districts in Nebraska since 1971. Our schools are receiving the maximum State funding under the State's present laws. Our attached exhibits prove that without Federal financial assistance, our schools would not be able to exist.

Congress, in 1926, began more than eight years of debate on Indian education until the Johnson-O'Malley Act became law in 1934. Even during this time of paternalism and assimilation, the U.S. Government realized its responsibilities and obligation for Indian education. This is evident through the records of congressional hearings and testimony from 1926 through the present.

The 1937 hearings state:

> There are some states where there is no equalization law and the districts are still largely dependent on local taxation. Here, the Indian service must continue to assist with the actual cost of maintaining the schools as well as providing funds for the special services required for Indian children.

We are sure that you are aware of the provisions of the Johnson-O'Malley Act in 1934 and its amendments up to 1975, however, we would like to emphasize several points.

The amendments of 1936 allowed for the Secretary of the Interior to contract with:

> * * * any state or territory, or political subdivision thereof, or with any state university, college, or school, or with any appropriate state or private corporation, agency or institution, for the education of Indians in such state or territory, through the agencies of the state or territory of the corporations and organizations herein before named. (49 Stat. 1458.)

The Indian tribes did not take advantage of this section because it was unknown to most tribes and not advertised by the Department of the Interior or those States who had Johnson-O'Malley contracts.

In September of 1971, the three tribes of Nebraska were instrumental in changing the Johnson-O'Malley programs nationwide. We demanded that the Johnson-O'Malley contract with the State be terminated and that the Secretary of the Interior enter into a contract with the Nebraska tribes under the authority of the Johnson-O'Malley Act amendment of June 4, 1936.

As a result, we eliminated the bureaucratic institution but we still had to negotiate with the Bureau of Indian Affairs.

The Bureau of Indian Affairs has historically dictated the level of accreditation of our schools by not providing enough funding to allow us to achieve the highest possible standard of education for our children. This is in direct conflict with the law as stated in section three of the Johnson-O'Malley Act.

> **The Secretary of Interior is authorized to make the necessary rules and regulations, providing that the minimum standards of service are not less than the highest maintained by the contracting state.**

The State of Nebraska has several accreditation classifications:

1. AA accreditation in 31 schools;
2. North Central accreditation in 145 schools;
3. Rule 11 or Standard Accreditation in 170 schools;
4. Rule 14 minimum approval standards in 863 schools of which 832 are rural elementary schools.

The Winnebago school is at the bottom of the standard accreditation—Rule 11—schools; the Macy school is in the upper minimum approval classification—Rule 14—and the Santee school is listed as minimum approved-conditional.

The Johnson-O'Malley law states that the Federal Government should fund our schools in order for us to meet AA accreditation. In 1975, the three tribes of Nebraska passed tribal resolutions that stated the minimum standards of education for their children would be North Central Accreditation or above.

In order for our schools to even maintain the lowest level of accreditation, we need assurances of continued, guaranteed basic operational support funding. In order to meet those standards which the Federal law dictates, we need additional basic operational support.

The Bureau of Indian Affairs has continually failed to apply the law in a uniform manner to all schools affected by allowing some school districts to achieve and maintain higher levels of accreditation than some other school districts.

In addition, the Bureau of Indian Affairs has not adhered to their own regulations by continually granting waivers to the criteria established in the regulations relative to being eligible to receive Johnson-O'Malley basic support.

This is very evident when the Bureau of Indian Affairs used 3100 moneys to assist five public school districts in South Dakota after they had requested a waiver to the Public Law 93–638 regulations. Our three tribes and schools requested a waiver of these regulations also but we were denied.

We would like to point out that with the present emphasis on education of handicapped children, and the Federal definitions of handicapping conditions of children who need special education and related services, it appears that another area of "hard" financial funding is needed if we are going to provide quality education to meet the needs of all children.

Volume 42, No. 163, of the Federal Register, dated Tuesday, August 23, 1977, spells out that "free appropriate public education," meaning special education and related services is to be provided not later than September 1, 1978. This is another reason for our recommending that basic operational support by Johnson-O'Malley be reevaluated and continued.

Mr. Maurice Rabenberg, superintendent of the Sisseton, South Dakota school district included Congressman Pressler's news release in his testimony before this committee last spring. We agree with Congressman Pressler's press release.

> **In testimony submitted to the House Subcommittee on Interior Appropriations, the South Dakota Congressman called for the restoration of Johnson-O'Malley**

funding, arguing that many schools dependent on it lack adequate tax base and are severely limited in their ability to raise tax revenues.

We wish that the fact finding tour, which Congressmen Pressler, Blouin and Quie conducted, would have included our Nebraska schools. They would have also found that the Bureau of Indian Affairs has not practiced an equitable measure of allocating basic support funds to public school districts.

Since the Sisseton school was used in the press release, we would like to compare this school district with ours in Nebraska, and to point out the unequitable and unfair funding allocations.

Mr. Chairman, we have a table included in our testimony, and I would like to pass over that and ask that our education specialist, Mr. Walters, go over this with the committee, so that they can better understand it, after our testimony.

The testimony of Myron Jones, director of Indian Education Training, Inc., has some valid information when he mentions some situations in Arizona and South Dakota. But what about those Indian schools in Nebraska, Iowa, and Minnesota, and possibly other States, which are Indian controlled, located on an Indian reservation with very few taxable acres within the school district?

We signed off on the "red Regs" with the understanding that unique school districts such as ours be accounted for. This assurance was verbally provided, but when the "red Regs" and final Public Law 93-638 regulations were published, there was no protection for our districts.

In fact, when the Public Law 93-638 regulations came out for comment, the one-third reduction per year for 3 years of basic support was not even mentioned. When 93-638 became law, and we received the final regulations, the one-third reduction of basic support was included.

We did not even have an opportunity to comment on them. Who included this reduction in the regulations without consultation of Indian people? This is against the complete philosophy of the law itself.

Of the 29 school districts who have indicated a need for basic support in 1977-78, 12 are from Arizona and 7 from South Dakota. That does not neçessarily mean that some of these schools do not need basic support funds or that all Indian-impacted public schools do not need basic support assistance.

We understand that there is a move underway to remove the Johnson-O'Malley program from the Department of the Interior and place it under the Department of Health, Education, and Welfare, either by amending Public Law 874 or title IV, part A, of the Indian Education Act. We are strongly opposed to this type of action.

We recommend that the Johnson-O'Malley basic support program remain with the Department of the Interior, Bureau of Indian Affairs, as this Bureau has been charged by Congress with the responsibility to assist Indian tribes.

The Congress recently elevated the position of the Bureau of Indian Affairs in the governmental structure by elevating the Commissioner of Indian Affairs to Assistant Secretary of Indian Affairs.

Before I go into our recommendations, I would like to relinquish the time to our representative from the Santee Sioux Indian Reservation.

STATEMENT OF ROGER TRUDELL, SECRETARY, SANTEE SCHOOL BOARD

Mr. TRUDELL. My name is Roger Trudell, and I am a member of the Santee Sioux Tribe of Nebraska and secretary of the Santee Public School Board of Education.

The goal of the Santee Sioux Tribe is to provide its youth and adults with the best education possible, and this goal has been reemphasized often.

In 1971, the Santee School Board became completely Indian controlled, and we have remained Indian controlled to the present day.

The Santee public school is now a K through 12 school system educating 100 students of which 97 are Indian. Last year we operated a K through 8 system and transported our senior high school students to a neighboring district, 15 miles away.

The Santee Tribe and community has worked very hard for the past 6 years to develop a school system that could educate all of our children. We now have a new $2.1 million elementary facility completed in 1976 with the assistance of Public Law 815.

The Santee people once again have the major responsibility for the education of their children. Something we lost many years ago.

Ironically, the largest single factor in our getting this school was because the non-Indian landowners in the school district filed a suit requiring our district be dissolved and consolidated with another non-Indian controlled district.

We lost the lawsuit in district court, but have appealed that decision to the Nebraska Supreme Court. In the meantime, we asked the State of Nebraska to waive its law requiring 100 high school students in order to start a high school. The State legislature said they would consider this action provided that the Bureau of Indian Affairs fund the difference needed to operate such a school after all other financial resources were accounted for. The Bureau of Indian Affairs provided that commitment after much deliberation and consideration.

It is important to mention that the school districts surrounding our district, supported our efforts in the lawsuit. Their statements for this support were because our district only consisted of 7,269 acres of land of which 2,185 acres are Indian owned, and that the revenue of $7,250 was not sufficient for them to educate our 100 students. These school districts did not have the room or facilities to accommodate our students, and in no way could they afford the operational cost of our new facility, if they used it as an attendance center. Our 100 students would not bring the percentage of Indian enrollment to the percentage required for them to receive Johnson-O'Malley basic operational support.

The Santee people did not want to be forced into consolidation because of the following reasons:

1. Loss of local control of the education system.
2. A dropout rate of 76.3 percent of our students attending these other schools over the past 10 years.
3. Transportation of our 100 children from 30 to 65 miles per day.
4. Loss of economy to our community which our school generates.
5. Continue to expose our children to the indifferent attitudes these communities have demonstrated in the past.

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I can already relate many positive things that are happening now that we control our own school in our own community:

1. Our community has grown from approximately 120 people from 1970 to 430 in 1977.
2. Our school has grown from 11 students in 1970 to over 100 in 1977.
3. We have just completed 10 additional housing units and have been approved for an additional 40 housing units with construction to start in the near future.

Clearly the school is the lifeblood of our small community. Our United States is going to continue to grow.

The U.S. Government, again, gave our Indian people a commitment to finance our educational system on the Santee Sioux Indian Reservation. Again, the Santee Sioux people have trusted the U.S. Government in the fulfillment of its commitment. If this commitment is not fulfilled, what is the solution to the education of our Indian children?

Thank you for this opportunity to speak, I would like to relinquish the remaining time to Mr. Cline, who will present our recommendations.

Mr. CLINE. We would like to offer the following recommendations to the committee:

1. Guaranteed funding of our schools at a level adequate to achieve maximum State accreditation as required by law. This funding should have built-in funding increases to offset rising educational costs.
2. Place this funding on each tribes band analysis so that there is a guaranteed consistent funding level from year to year.

Our recommendation would assure our school district of continual funding, and each school district will know in advance what the exact funding level will be. This will allow our schools, for the first time in many years, to develop a program based upon children's needs, rather than a "hope the money arrives" philosophy which we have to operate under at the present time.

Our recommendations will save the U.S. Government millions of dollars. The Federal, State, and local governments would continue to share this responsibility. If Johnson-O'Malley basic support funding is eliminated, the Federal Government would have to pick up the total cost.

Based on the Pierre Indian Learning Center's per pupil cost of $6,400, it would cost the Government $5,120,000 to educate our 800 Indian youth.

The above recommendations would also eliminate the "how to" questions that have plagued the U.S. Government the past few years.

The Johnson-O'Malley basic support dilemma is not a new one for our three tribes and schools in Nebraska. Attached are tribal resolutions, recommendations from the Bureau of Indian Affairs' Central Office staff, and position statements dating from 1975, when Public Law 93-638 became law until October of 1976.

We would like to review this material and other attachments because we have been pointing out the problems for over 2 years, with no action being taken on our recommendations.

The U.S. Government is going to have to decide whether they are going to fund those schools who need basic support, or those schools who would like to have it. If you are going to fund those schools that would like to have it, then every school district educating an Indian child should be funded to the level that the school district is achieving maximum State accreditation.

Unless adequate funding is provided to our school districts, our students will have to leave the community to receive their education, because without adequate funding, we will have to close the doors to our schools.

There are no Bureau of Indian Affairs schools in Nebraska, the nearest one is located some 165 miles in distance. Adjoining districts do not want to absorb our students for a variety of reasons as evidenced by the recent law suits concerning the annexation of School District C–5 Santee, Nebr., referred to earlier by Mr. Trudell. Perhaps it is because of nontaxable land or perhaps because of our brown skin. Who can say for sure?

It would be of considerable financial advantage to the Government to adequately fund the Johnson-O'Malley programs for our three public schools. If the Government chooses not to do so, they will have to incur the cost of transportation, housing, and education of an additional 800 to 900 Indian students.

Perhaps even more costly than that would be the human cost in the breaking up of many family units and the destruction of the central core of our communities. Besides, the Government, through legal statutes and treaties, has an obligation to provide the costs of a total educational program for Indian youngsters.

In parting, I would remind you that through the passage of Public Law 93–638 on January 4, 1975, Congress reaffirmed the obligation of the United States to respond to the strong expression of the Indian people for self determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

Congress declared that a major national goal of the United States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

I would urge you to seek input and involvement of local Indian tribes in any affairs that affect them even though others in authority may urge you to do otherwise as evidenced by the absence of tribal leadership testifying in these proceedings.

I thank you for the opportunity to speak before this committee. I am confident that in your final analysis, you will see the need for the continuation of funding for schools in our unique situation.

I would like to comment on one thing. I think that Congressman Quie hit it on the button earlier when he said that he would like to see equitable funding. I don't know whether he was talking at that time about the supplemental program. But that is exactly the program where we would like to see equitable funding, and on the basic support program.

As a result of the press release, and so forth, this is the way that we see it. In no way are we trying to take money away from the education of Indian children in other States, but we would like to make this funding equitable.

It is on page 8 of our testimony, in Nebraska we operate three school districts located from 10 to 25 miles from each other, and the total number of students is different as compared to the total for Nebraska. We educate more Indian children in Nebraska than they do in one school district in South Dakota. The regulations say 70 percent, and we are totaling 94 percent. The school district is 99,000 acres, and we only have 67,000 acres in all three of our school districts compared to 279,000 acres, of which only 34,000 are taxable compared to 238,000 of non-Indian. You can see the difference.

We have much more non-Indian land compared to that district. We only have $3,300,000-some assessed valuation of which one district has $2.5 million at that, we are educating 254 Indian kids; compared to an $18 million assessed valuation in 1975–76 for a year, for three schools, with our percentages, we only received $305,000 JOM basic compared to one school district with less Indian kids, not meeting the regulations, receiving $368,000.

Mr. QUIE. Let me ask you on that, you get $305,000, and Macy receives $368,000.

Mr. WALTERS. They have 1,568 children, but only have 604 that are Indian.

Mr. QUIE. You have more children, but they get more money.

Mr. WALTERS. They have more students, and we have more Indian students, but they get more money.

Mr. QUIE. This has to do with Indian students anyway.

Thank you.

Mr. BLOUIN. We will now hear from Mr. Richard W. Tanner, coordinator, Johnson-O'Malley program, division of education, Minnesota Chippewa Tribe.

[The prepared statement of Mr. Tanner with attachments follow:]

Richard W. Tanner
Coordinator, Johnson-O'Malley Program
Division of Education
Minnesota Chippewa Tribe

On behalf of the Minnesota Chippewa Tribe, I am honored to present the following testimony.

The Johnson-O'Malley program as administered by the Tribe is centered on community and local control. The policy is developed by the Tribal Education Committee with technical and statistical assistance coming from the Division of Education. The policy recommendations are submitted to the Tribal Executive Committee, the governing body, for ratification. The policy is implementated by the Division of Education and Johnson-O'Malley administrative staff.

The policy developed is supplemental to and/or clarification of P.L. The policy developed is supplemental to and/or clarification of P.L. Part 271 and 273. * Insert by [illegible]

93-638 and the administrative regulation in CFR 25, Part 271 and 273. * Insert by [illegible]

93-638 and the administrative regulation in CFR 25, Part 271 and 273.

Among the policy and direction approved by the Education Committee and Tribal Executive Committee includes Election Guidelines, (attachment I), Program Guidelines, (attachment II), and needs assessment models, (attachment III), and evaluation models (attachment IV). * Insert #2 The Election Guidelines outline a procedure for elections of Indian education committees in local school districts. Thereby eliminating school superintendents committee appointments. The procedure involves open hearings for community members as a means of increasing community involvements and information dissemination, as well as, taking nominations from the floor for candidacy to the committees. The Election Guidelines establish an Election Board who make notice of election times, and places, distribute ballots, talley results, and certify candidates and election results. The Election Guidelines also define qualifications for candidacy and membership on the local Indian education committee with the intent of placing authority for program in the hands of those most affected by the program, that is, eligible Indian parents and students.

The Program Guidelines were developed to encourage certain programs such as tutoring and culture classes in an attempt to make more efficient use of limited funds. The Program Guidelines are also designed to give local Indian education committee members examples or program ideas.

The development of comprehensive need assessment models was the most important and influential aspect of the JOM program in the last two years. The models were based upon a community opinion survey and the Delphi method.

The community opinion survey use a series of questions based upon the local community concepts or problems, as well as, certain universal concepts in Indian education. The needs assessment statements have value rating of ① to ⑤ on "what is now" and "what should be". The community survey instrument used 30 to 89 locally tested statements. The local Indian education committees administered the instruments talleyed and analysed the results. An index of need was derived from the comparison of "what is now" and "what should be". The index of need was compiled from all the statements and then ranked according to need from the highest to the lowest priority.

The needs assessment instrument was administrated to a random stratified sample of students, parent, teacher, school administration, and in some instances, school board members. Indian education committee members, teacher aides, tutors, home-school coordinators, and community members were the interviewers.

The need assessment operated in the 85 per centile with a tolerance of err at plus-minus 15 % given to a sample of 100% of members in smaller communities to 46 or 96 people in larger communities of 25 % of the population depending upon size of the community.

The Delphi Method or what we call the "American Indian Consensus Assessment Model" operating on the assumption that many heads are better than one in assessing the needs of a given community. The AICA model uses many of the same procedures and methods as the community survey and operates in the same percentile and tolerance of err range. The major difference is that instead of personal interview, groups were gathered to discuss and rank each needs assessment statement. Discussion and analysis of each statement play an important part in the process with much "give and take" until a consensus is reached on a given number of priorities. The AICA model also allows for a minority opinion. The Delphi method was modified to take into consideration Chippewa social and governmental characteristics. The modification also enhance the consensus method of decision making that is common to Chippewa tribes.

19 of 21 Indian education committees in 1976-77 completed the needs assessment; one used an outside consultant, who used essentially the same model and the other used a statistical and data analysis. It is also surprising and astonishing that people with an average educational level of 9.8 years completed a needs assessment commonly used by people having masters degrees or scholars working on their doctorial dissertation.

The amount of errs in the needs assessment were small and no greater than then the errs committed by the professional researchers. The errs included incomplete questionaires; statements misunderstood by the interviewers; and improper markings of the value ratings.

The errs were kept to a minimum because of the workshops and training sessions that were held. Four regional workshops were held for a two day periods, plus training in local school districts on a "as needed" basis. There were also many telephone calls for advice, clarification, and assistance.

The analysis of the results and index of need were used to plan and develop long and short range goals for the overall development of the local program.

The needs assessment cause a radical change in the programs and in other cases reinforced and documented the program need. The changes were from a teacher aid program which helped all children in a classroom to one offering more services concentrated on only Indian students in tutorial and counseling programs. The reinforcements were made in the area of drug, education, and counseling, which by the way, was the most commonly reaccuring item along with culture, language, and Chippewa history courses. The needs assessment also documented the need for "drop-out" prevention programs and more intensive work in assisting those students who have been pushed out of school. Another ranking priority was the need for more community based educational efforts such as, tutoring, cultural, and recreational activities in an Indian community center, to provide quality and qualative services to Indian students close to home and in a environment they feel more comfortable in.

The evaluation models ranged from on-site visits using the local program as a guide, to financial overviews checking receipts, expenditures, vouchers, and financial balance sheets. Developed are Program Audit monitoring for mid-year use to measure the present condition of the program and out-come evaluation using community opinion survey instruments and data collecting on grades, attendence, tardiness, graduates, and other demographic data. One evaluation model is based upon a community opinion survey using the same methodolgy as the needs assessment. This is done so that the local Indian education committee is familiar with proper research methods, there by enhancing the out-come of the evaluation results and providing them with usefull information for judgement and decision making.

In Minnesota, basic support funds 8° to ⑤ Indian community elementary schools with the funds earmarked for specific staff and services. The funds are supplemental to state, local, and federal funds, with the Indian community school getting a pro-rata share of state foundation aid, 874, hot lunch, transportation and other receipts.

The local contribution in two schools is in excess of local and county resources. In the case of Nett Lake there is little local contribution as there is little taxable land and in Pine Point no local contribution because there is no taxable land.

The basic support program is designed around community identified educational needs. At the present time the JOM basic support funds go to supplementing and providing expanded services to Indian students and community. The majority of the expanded services go into teacher salaries to maintain a professional full time staff ratio higher than the state average, e.g 18:1 to 14:1. The basic support funds also go into operation and plant maintenance. The age of the building and the distance from fuel sources increase the price of fuel oil. The rate of inflation and increased salaries for teachers and support staff increase by 10% to 18% each year, thereby adding to the cost.

The basic support programs are beginning to show results in terms of performance by Indian students when reaching junior and senior high school. For example, Nett Lake elementary students entering Orr 7th grade show improvement in academic classes and participation in extra-curricular activities.

In 1976-77 school year 50% of the Orr junior high students made the A or B honor roll at one quarter of another. Two Indian students were named to the National Honor Society, a privilage never before bestowed upon a Nett Lake/Orr Indian student. Approximately 1/3 of the 94 students in Orr High School participate in extra-curricular activities versus about 1 or 2 students total in the past. Some Indian students have become outstanding athletes in their respective sports. Of the eleven students who entered 7th grade, 7 graduated in 1976-77 school year, having a retention rate of 63% compared a drop-out rate of 90% a few years ago.

On the Grand Portage Reservation the drop-out rate in the past six years has been 0%, that is, all the students completing Grand Portage Elementary School go on to graduate from Cook County Public Schools.

The supplemental programs, as based upon the needs assessment, are tutoring in math, reading, communication skills, parental cost items, culture couses, drug education, work-study, counseling, and a list of others.

The effectiveness of the programs on the academic and social well-being is documented by the evaluations and data gathered. In Sandstone, the average daily attendance increased from 67 ADA in 1975 to 87 ADA in 1976. In 1976 98% of all graduating seniors entered college, vocational school, the armed forces, or the work force. The other 2% married. The yearly "drop-out" rate went from 50% to 13% on the average for the 21 school districts.

The advances made by the Minnesota Chippewa Tribe are threatened by a constance decrease in funding; increasing enrollment with no additional funds and the increasing cost of living. In the case of basic support, the funds are being phased out. These two facts are a step backwards for tribal people and contrary to self-determination.

The amount of funds received by the Minnesota Chippewa Tribe were: $893,116 in FY 75, $889,181 in FY 76, with transition quarter funds of $149,736, ~~and~~ we will receive an estimated $596,505 in FY 78 and we have an increase number of students. In FY 77 we also received $125,000 earmarked for Pine Point.

The decrease in funds case a reduction in staff and programs in local school districts and have the potential of wiping out the progress made so far. The reduction in funds also has a demoralizing effect on Indian community people. In 1976 Tower-Sudan graduated its first Indian student from Vermillion Indian community in 38 years and in 1977 graduated in second in 39 years. When both were asked "why and how they graduated," they both responded, ". . . because the Indian community were behind me and supported me."

The phasing out of basic support funds, and the rules stating that no school is eligible to receive basic support funds if it has less than 70% Indian enrollment, take away the only effective voice Indian people have in the operation, curriculum and services the school districts provide.

With the JOM funds Indian parents are able to determine curriculum text books, and those services as mentioned in CFR 25, Part 273.16. The legal authority to impact the quality of education will be limited only to special programs under JOM with the phase-out of basic support funds. This would be a step backwards for Indian people. The phase-out will also affect the moral of Indian people who don't want to see the school revert back to what they were a few years ago. And more importantly three of the five Indian community schools will close.

The closing of the elementary schools will mean much hardship for the Indian children. In Grand Portage the students will have to be bused 80 miles per day, in Naytahwaush 50 miles per day. The busing will place Indian students in an alien and many times an unfriendly environment in their most important and formative years.

In order to continue the operation of the five Indian community elementary schools the Minnesota Chippewa Tribe proposes four (4) options for your consideration: (1) Amend CFR 25, Part 273.12 and 273.31, thereby eliminating the phase-out and allowing Indian community school to continue; (2) Create a new cost code item in 3100 column of the Bureau of Indian Affairs budget and appropriating needed and necessary funds; (3) Funding coming from the Office of Education under P.L. 874, with necessary change in rules and regulations and increasing appropriations; (4) waiver of CFR 25, Part 273.12 and 273.31 to allow the Indian community elementary schools to continue and appropriating a supplemental funds.

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In order to keep the five elementary schools open and providing the services, and curriculum deemed desirable and necessary by Indian students, parents, and education leaders, $419,743.51 is needed.

The following breakdown is as follows: Maytahwaush $41,861.52, Nett Lake $130,109.32, Pine Point $175,230.85, Grand Portage $32,891.00, and White Earth $39,567.71.

The amount needed to continue the present programs at their present level is $1,046,505.00 to cover services to 3454 students.

The Minnesota Chippewa Tribe is greatly upset with the affect the present distribution formula is having on the level of funding we are receiving. We are upset not only because of the reduced funding but also because the formula approved by the majority of Indian groups and people was not adopted. The Tribal leaders can not understand how in a democratic society can one Member of Congress *Quit he was a Senator over rule a majority tribal opinion especially in an era of self-determination.

The Minnesota Chippewa Tribe urges the adoption of a formula that takes into consideration the cost of education and rate of inflation in Minnesota. And should not penalize the state because of the high cost, as the present formula does. The Minnesota Chippewa Tribe in the past has endorsed a formula based upon a weighting factor outlined in Option C, of the Bureau of Indian Affairs Memorandum of January 3, 1977. This formula, we believe, is fair and equable even though only part of the high cost in Minnesota is taken into consideration.

In closing, I respectfully request that one of the options for keeping Indian community schools be adopted, and a formula equitable and benficial to a majority of state and Indian tribes be adopted by the Bureau of Indian Affairs. I also request that supplemental funds be granted to the Minnesota Chippewa Tribe at a level equal to FY 77 for both supplemental and basic support costs.

Gentlemen, on behalf of the Minnesota Chippewa Tribe, I thank you for your time and consideration.

Megwetch.

Approved April 15-16, 1975 by Tribal Executive Committee
MINNESOTA CHIPPEWA TRIBE
Division of Education

LIEC ELECTION GUIDELINES AND REGULATIONS

The Guidelines for the election of Local Indian Education Committeess (LIEC) which the Minnesota Chippewa Tribe-Education Division will recognize as the only duly authorized voice of the Indian parents of the school districts eligible for JOM sub-contracts must be specific yet, flexible enough to allow for the expression of the unique needs and concerns of the participating districts. To guarantee program effectiveness and to maximize the benefits to the students served, a mechanism to ensure program continuity is necessary. Above all, the LIEC's elections, structure, and functions must be reflective of parental responsibility and must ensure as wide of community participation as is practicable. Further, in order to facilitate accountability procedures, the requirements for legal corporation under Minnesota law must be considered.

1. Composition

   A. Each LIEC must be comprised of at least six (6) persons and no more than ten (10). Each community will designate the size of their committee within the regulation of Section I, Part A.

   B. All candidates and members of the LIEC must be one-fourth or more degree Indian blood regardless of tribal affiliation.

   C. All candidates and members must reside within the school district served by the LIEC.

   D. Each RBC member will serve as a full board member of the LIEC serving the school district in which he/she resides, provided that where there are more than one RBC members eligible for LIEC membership, it will be their decision as to which will serve on the LIEC. Further, RBC members of the LIEC's may not serve as an officer of the committee.

E. Each LIEC will seat one or more eligible-students who will be elected by all other eligible students at a meeting called expressly for this purpose. The election must be in conjunction with the election of the non-student representative.

F. Three-fourths of each committee excluding student(s) and RBC representative, must be parents, guardians, or have custody of eligible children. Grand parents of eligible children are eligible to serve on the committee providing they meet the qualifications under Part I, Section B.

II. Nominations

There will be a special meeting of all eligible voters within each school district in April of each year. The purpose of this meeting is to explain tribal administration of Johnson-O'Malley; to present the election regulations and criteria for memberships; to receive nominations for LIEC membership; to determine the time and polling place(s). Additional nominations will be received by the Chairman of the Election Board at a place designated by the LIEC up to one week after the special meeting, provided that the moninations are in writing. Any nominations received from the floor or in writing that are disqualified by the Election Board will require a written certified explanation to the moniee for the reason therefore.

III. Eligible Voters

A. All voters must be one-fourth or more degree Indian blood, regardless of tribal affiliation.

B. All voters must be 18 on the day of voting.

C. All voters must reside within the eligible school district.

D. All voters must be parents, guardians or have custody of eligible students. Grandparents are eligible voters providing they meet qualification III, Section A.

E. Eligible voters must meet all four qualifications with the exception of students as their qualifications are stated under Section B.

IV. Elections

A. Each LIEC will be responsible for conducting and certifying the elections of LIEC's serving their respective populations. For each eligible school district, the LIEC will appoint a three member Election Board. It is recommended that these three appointees be ineligible for membership and voting for the LIEC. The Election Boards will be responsible for selecting the polling places, preparing ballots, notifying all eligible voters of the time and place of polling booths in cooperation with the LIEC, collecting and counting ballots, and forwarding the final tallies with the ballots cast to the LIEC. It will be the responsibility of the Election Board to enforce all election regulations. Elections will be held for at least one day at a polling place convenient for all voters. The places selected as official polling places must be distributed to all eligible voters together with election regulations and voter eligibility rules. This information should be out at least ten (10) days prior to the first day of balloting. Certification of all eligible voters will be made by the Education Division of the Minnesota Chippewa Tribe, based upon a list submitted by the LIEC's.

All newly elected members shall take office July 1 of each year.

V. Definitions

A. Eligible children: only those children enrolled in public school programs of eligible school districts and at least one-quarter degree Indian blood are eligible for JOM participation.

B. Eligible school district: only those school districts with sizable quantities of trust land within the jurisdiction of the Bureau of Indian Affairs which can demonstrate that this trust land creates a financial burden will be eligible for participation.

C. Custody: having an eligible student in your home and presently attending an eligible school, whether it is freedom of choice or placed in the home by the courts.

Additions:

A. There will be only one duly constituted and recognized LIEC in each eligible school district. The LIEC, to receive recognition as the official LIEC for an eligible school district, must adhere to the election regulations and procedures set forth herein.

B. Those districts encompassing more than one population center or recognized Indian village, or community must have LIEC's comprised of members distributed proportionately to the number of eligible children in each population center, village or community.

C. At the option of the LIEC's, members may serve longer than one year. If this option is taken, terms must be set forth in the By-Laws of the LIEC.

VI. Appeals

A. Any eligible voter for LIEC membership, can protest the lection results or procedures used by the LIEC for a violation of any guidelines and/or regulation, provided they voted in the election. The protest or contesting of the election must be in writing and filed up to five days after the close of polls with the Election Board who sill hold a hearing within five days.

If the person is dissatisfied with the decision of the Election Board he/she can appeal the decision within five days to the LIEC who will hold a hearing within five days. The appeal must be in writing and based upon a violation of the Election Guidelines.

If the person is dissatisfied with the decision of the LIEC he/she can appeal the decision within five days to the Tribal Education Committee, who will hold a hearing within five days of the appeal. The appeal must be in writing and based upon a violation of the Election Guidelines.

If the person is dissatisfied with the decision of the Tribal Education Committee he/she can appeal the decision within five days to the Tribal Executive Committee who will hold a hearing within five days of the appeal notification. There will be no other appeal process.

PROGRAM GUIDELINES

The guidelines are to provide direction to the LIEC's and to provide for accountability while allowing for program diversity and flexibility, and provide for the most efficient use of limited funds.

Grants to eligible contractors will be based upon actual demonstrated and documented needs. Such documentation shall include data, evaluations, survey results concerning academic standing, daily attendance, tardiness, student opinion, teacher and administration opinion, parent and community opinion.

The JOM program shall contract funds to eligible school districts, Reservation Business Committees, incorporated LIEC's upon approval by the Tribal Education Sub-Committee and Tribal Executive Committee. Programs must comply with CFR 25 §273.16, §273.17; all programs must be developed and approved by the LIEC.

The Tribal Executive Committee will contract funds to eligible contractors in three areas: 1) pre-school; 2) elementary and secondary programs; 3) programs for out-of-school students. Priority will be given to elementary and secondary programs.

Priority will be given to programs in the following order: 1) academic; 2) cultural; 3) social (behavioral); 4) for out-of-school students; 5) summer academic; 6) recreational and 7) summer recreational. The priority can be changed if the needs are being met by (PL 318) Title IV Part A or B or the priority established by a proper needs assessment.

Priority for pre-school programs will be given to: 1) school districts without a pre-school program; 2) Indian villages or communities without a pre-school program. The proposed pre-school program must serve 10 or more eligible students.

Note: The examples listed under each program priority heading are only examples. The LIEC's are not restricted to programs listed under examples.

DEFINITIONS

Academic Programs - programs that affect the academic well-being of eligible students. Examples of such programs are tutors, SLBP teachers, special education classes, community study and resource centers, correspondence classes (to meet graduation requirements), career counseling, counseling in graduation requirements, student tutoring students, incentive programs, independent studies, internship. Contractors must ensure that students are receiving services they are eligible for, under Title I (PL 89-10), Title IV (PL 93-318) and other state and federal programs, including R.B.C. programs.

Cultural Programs - activities which stress cultural heritage, life-styles, language, history, religion, arts-crafts, and leadership programs. Examples of such activities are classes, independent study, field trips to museums and historical points of interest, talks by elders, interships, participating in traditional seasonal activities. Strong efforts should be made to ensure that students receive class credit.

Social Programs - programs designed to affect the social-academic behavior of eligible students. Examples of social programs are counseling, student-parent advocacy, behavior modification, career counseling, drop-out prevention, re-entry programs, chemical dependency education, parent education, parent-community awareness classes, leadership training, school band.

Out-of-School - programs designed to meet the educational needs of students who have not graduated or received their GED, to affect their employability or re-entry to high school, entry into college or vo-tec institutes. Examples include GED classes, career counseling, advocacy, follow-up, if not provided by state, L.E.A. or Talent Search.

Recreational Programs - programs not academically oriented, but are planned to provide activities for student enjoyment. Examples are after school bowling, movies, rock concerts and circuses, athletic tournaments and fees, social trips, supplies and fees for Girl and Boy Scouts, Cub and Brownie Scouts, and other non-school related activities.

Summer Academic Programs - programs designed to enhance the academic well-being of students in school related subjects, in order to meet credit requirements to graduate the following quarter or to meet academic requirements to enter the next highest grade. Examples including tutoring, correspondence courses, summer school, and early school.

Summer Recretation Programs - programs designed to provide recreation for eligible students such as softball, slow pitch, recreational camping, recreational field trips, 4th of July, rock concerts, circuses, Bicentennial trips, athletic tournaments and fees, social trips, supplies, dues, transportation for Girl and Boy Scouts, Cub and Brownie Scouts, pow-wows, ceremonial dances and other non-school related activities. This also includes the purchase of equipment and supplies for such activities.

PARENTAL COSTS

Parental costs are those items used by the student to meet the minimum class requirement and other fees and supplies which allow the student to participate in school related activities. Parental cost items may be limited to those families who are under the Income Guidelines. Parental cost items are not an entitlement to families, but rather to meet the special educational needs of eligible students. Exceptional circumstances can be considered by the Committee.

FAMILY SIZE	FAMILY INCOME
2	$ 6,620
3	8,200
4	9,770
5	11,210
6	12,650
7	13,970
8	15,280
9	16,640
10	17,640
11	18,820
12	20,000
Each Additional Family Member	1,180

Home economic, industrial arts, vo-tech supplies including safety glasses may be purchased for those families who fall within the income guidelines for projects which exceed the minimum class requirement but do not exceed $25.00 per nine week period.

Graduation expenses such as pictures, announcements may not exceed the cost of the least expensive. Class rings may not exceed the cost of the least expensive ring. Cost for pictures, announcements, rings which exceed the least expensive may be assumed by the parents or students.

Tennis shoes may be purchased for use in physical education class only and not for street wear. The cost of physical education tennis shoes may not exceed $10.00 per pair; athletic tennis shoes may not exceed $20.00 per pair. Other athletic equipment may be purchased at the discretion of the LIEC's at a cost not exceeding the least expensive.

LIEC

LIEC expenses are those expenses needed by the Committees to administer the JOM program. The expense to administer a program includes reimbursement for actual expenses to attend committee meetings or to a maximum of $15.00 as a fee for attending LIEC meetings, except state or regional meetings where such expenses shall be in accordance with local school districts or Tribal travel policies. Other expenses include purchase of equipment, rental of lease of space, audits, insurance, bonding, paper supplies, postage, telephone, program evaluation, community dinners for elections and program information desemination and in-service training and consultant fees. All out-of-state travel using JOM funds must have prior approval of the officers of the Tribal Executive Committee.

The purchase of vans, buses, and other vehicles may be limited to LIEC use on approved programs. JOM vehicles may not be used for personal use of JOM staff and committee members. JOM vehicles may not be used to transport adults to activities.

The Minnesota Chippewa Tribe
Education Division
Johnson-O'Malley Program

NEEDS ASSESSMENT

Instructions to Local Indian Education Committee BEFORE the needs assessment is started:

1. LIEC's must review the instructions to the Needs Assessment.
2. LIEC's must review the survey statements.
   - a. LIEC add statements to cover parts of their local program not covered in the enclosed Needs Assessment.

EXAMPLE FOR ADDING STATEMENTS:

The purpose of adding a statement is to see if a program is needed and how important it is to the students, parents, teachers and community.

If the LIEC wants to find out if a mini-health unit should be in the elementary school taught at the community center; make the statement: The statements do not have to be complete sentences, do not use words like "good," "bad," "would" or "should." Make the statement in the same manner as in the Needs Assessment.

1 2 3 4 5 Mini-health units for elementary students offered at the community center. 1 2 3 4 5

The statement and numbering system will also tell the LIEC how important it is and will prioratize it.

Do not make statements which will BIAS the need. FOR EXAMPLE:

1 2 3 4 5 The mini-health units offered for elementary students are a good idea. 1 2 3 4 5

OR

1 2 3 4 5 The mini-health units offered for elementary students should be offered again. 1 2 3 4 5

3. Decide who will be responsible for seeing that the Needs Assessment is completed. More than one person will have to be involved in the interviewing because a lot of work is involved. The LIEC Chairman or Home-

School Coordinator should have the responsibility of seeing that the Needs Assessment is followed by the Instructions and to make sure it goes on schedule. If the LIEC members do the interviews, we recommend the newly elected members be selected. The LIEC can also use the aides or other JOM staff.

4. Please keep in mind that the most important aspect of this questionnaire is to find out where there are problem areas for Indian students and therefore what kind of programs we need to have, to try to solve these problems. It is not intended to evaluate the present program under Johnson-O'Malley, as such. We are not attempting to find out what people think of Johnson-O'Malley. We want to determine what the problems are, regardless of whether Johnson-O'Malley programs deal with these issues. We want to find out if in fact certain things are problems at all, if there are any programs in these areas and therefore what kinds of programs need to exist. In other words, these statements that are contained in the instrument are to be considered in terms of whether these opportunities (program) exist and whether programs that do exist are good, poor, etc. In addition then, whether these programs, opportunities need to exist and therefore how important it is to have these programs...we want this ranking of need in terms of importance regardless of whether there is a program existing and regardless of how well a program is doing now...some programs may not be doing a very good job now, but it should be considered in terms of how important it is to have that program. We will be able to determine from their answers to the first rating how well a current program is doing and whether it should even exist--every present program does receive a rating and we will be able to determine those that need improvement also.

EXAMPLE:

not import	unimportant	no opinion	important	Very important		very poor	poor	no opinion	Good	Very Well
1	2	3	4	5	The opportunity for Indian students who have dropped out of school to get counseling.	1	2	3	4	5

First, is it important that this opportunity be available to Indian students; should Indian students receive counseling if they dropped out of school? (The number 1 to 5 on the left)

1 - Indian students do not need to have this kind of assistance (not importantat all)
2 - It is probably important for Indian students to recieve this kind of assistance, but I don't think so. (unimportant)

3- No Opinion

4 - It is important to have the opportunity available (important)

5 - It is very important to have this opportunity available (very important)

Second, does this opportunity exist? (The number 1 to 5 on the right) If the opportunity does exist, how available is it to Indian students?

1 It does not exist. (very poor)

2 - It exists but Indian children are not served very well. (poor)

3 - No Opinion

4 - It does exist and it seems to help the Indian children all right. (good)

5 - It does exist and a great effort is made to make sure Indian students receive this help (very well)

5. Decide how many people in the community will be asked to fill out the survey form. If the community is large, asking 96 people to fill out the form will give the LIBC a good idea of how the community feels.

   If the community is smaller, selecting 45 people to survey is a reliable number. Both group sizes of 45 and 96 have been proven statistically to provide a cross-section of opinions in any given community.

   If your community is very small and you don't think you will be able to interview 45 people, counting students 7 - 12, parents, school administrators and teachers of Indian children, then we recommend that all 7th to 12th grade eligible Johnson-O'Malley students, parents guardians, teachers of eligible students be interviewed. The LIBC also has the option of interviewing 25% of the total number of parents, students, teachers and administrators.

6. Select the people to be surveyed. The easiest way for LIBC's to do this is to use the random sample method.

   - write the names of all parents and guardians of Indian students on separate pieces of paper. (Example: Mr. John Jones should be on one piece of paper and Mrs. Susan Jones should be on another piece of paper. Do not write Mr. & Mrs. Jones on the same piece of paper.)

   - write the names of all eligible Johnson-O'Malley students in grades 7, 8, 9, 10, 11, and 12 on separate pieces of paper.

   - write the names of teachers who have Indian students in their classes on separate slips.

   - write the names of school administrators on separate pieces of paper.

   - write the names of employees of the Johnson-O'Malley and Title IV programs on separate slips.

7. Put all of the pieces of paper in a box. If you are going to survey 45 people; draw 45 names out of the box - one at a time. After you draw each name, write it down, put it back in the box* and continue to draw other names. You should draw 5 or 10 extra names in case you cannot reach some people or they don't want to answer the survey. It is important that you have enough names to complete your survey otherwise you will have to go through the entire process of drawing names again. It does not make any difference what order the first 45 names (if you are surveying 45 people) or the 96 names (if you are surveying 96 people) are written down, but when you draw the extra names be sure to list them in the order they are drawn. The reason for this is, in case people in the original 45 cannot meet with you then you must try to contact No. 46 first, then 47 and so on.

*NOTE: If you draw the same name twice, throw it back in the box and draw out another name. The reason that you throw the names back in after they have been drawn is so every person has the same chance of being picked as the first person whose name was drawn.

"Needs Assessment"

RESPONDENT IS: (check one)

A. Indian Student in grade 7 to 12

B. Parent of an Indian Student

C. Teacher of an Indian Student

D. Administrator in a school Indian Students attend

E. JCM Staff member

F. Other (Title IV)

RELATED INFORMATION:

1. Age: A. (12-18) B. (19-30) C. (31-45) D. (45-)
2. Sex: A. (Female) B. (Male)
3. Education: A. (Grade 9 and below) B. (Grade 10-12)
   C. (up to 2 years post high school) D. (3-4 Years post H.S.)
   E. (College Degree or more)
4. Salary Range: A. (up to $5,000.) B. ($5,001.-$8,000.)
   C. ($8,001.-$12,000.) D. ($12,001.-)
5. Number of children: A. (0) B. (1) C. (2-3) D. (4-6) E. (7-)
6. Grades of Children: ______________________________

INTERVIEW PROTOCOL

1. Contact Respondent: a. Briefly explain who you are, who you work for and what you are doing (trying to find out what kinds of problems Indian students are having in school so this Johnson-O'Malley program can be designed to deal with these needs).

If you want to, you could use the following statement to explain why you are doing the interview (or use your own words):

> "The Local Indian Education Committee is preparing a Needs Assessment about services and programs that are offered or could be offered by the Johnson-O'Malley program. In order to find out what the current program is doing and whether it should continue and whether certain programs should be offered and what servicus are needed. We wish to ask you some questions. You have been selected as part of a random sample to participate in the survey - we will appreciate it if you will give your frank and honest answers. There are no right or wrong answers to the statement, we only want to know how you feel. Megwech!"

b. Briefly explain that they were picked (selected) by chance out of a "hat" for this interview, that they are only one of a number of people selected. Please stress the importance of talking with them.

c. Please estimate the time you will need.

c. Set an appointment and time for the interview.

2. Be on time.

3. Look over the instrument and be familiar with it before you start the interview.

4. Take the time to establish rapport. You may need to explain all of the above again, do so in more detail. You may have to explain what Johnson-O'Malley is, your responsibilities, etc. Please take the time necessary to do this in order to allow the respondents to thoroughly understand what you are doing and the importance of their answers. Be sure to assure them that their answers are confidential and that no one will know who is answering what. Especially since you have nothing to do with the compilation and analysis of the completed form.

5. Do not give your opinion, continue to stress the importance of their answers. Do not try to influence their responses in any way (tone of voice even.) If they simply do not want to give an answer, they will rate #3-no opinion. Do not pressure them to take a position.

6. Ask all questions. If one question on the survey is not used the whole questionaire is not useable.

7. Keep the time in mind, don't get all side-tracked and forget about the statements. This is difficult to do as many people want to talk, have gripes, or do need to talk to someone about some problems or their feelings. Don't cut anyone off, but keep in mind that this interview needs to result in a finished questionaire. Try to complete the form and then do take time necessarily to talk with the people if you are put in a position to. These interviews could serve as an important guide for the LIEC. If your interview needs to be interrupted for some unforseen and unavoidable reson, then do not hesitate to close where you are, set up another appointment before you leave and this appointment before you leave and this appointment should be as soon as possible--later in the day or the next day.

8. Each interview should be done on a seperate form. The interviewer does the marking by circling the numbers on both side of each statement. Make such each mark is clear so the people doing the scoring will not have to guess which number is marked. The respondent can see a sample Needs Assessment to help the understand each statement, If the person has a question on a statement, keep the explanation simple and do not go into too much detail. The most an interviewer can do is to define a word. The interviewer should not give examples for the statement. The person being interviewed can also see a copy KEY for Important and Occurence meanings.

9. Please stress that all interviews are confidential, all interviews will be kept secret. No interview will be singled out, all interviews will be used for getting the total need of the community.

If you have any questions please call Dick or Lois at
218/335-2254

SCORING AND INTERPRETING THE RESULTS

Step 1 - (a) Score all answers from No Opinion - Very Important and No Opinion - Very Well columns for each statement. This can be done on the attached Form #I and Form #II.

(b) Find the average for each statement by adding all the scores for each statement and dividing by the total number of responses by the number of interviews.

EXAMPLE: Statement #1 (for 45 people)

Total	1	7
	2	6
	3	11
	4	11
	5	10
		45

The average response is arrived at by multiplying:

1 x 7 = 7
2 x 6 = 12
3 x 11 = 33
4 x 11 = 44
5 x 10 = 50

Then adding the total of all responses:

$$\begin{array}{r} 7 \\ 12 \\ 33 \\ 44 \\ \underline{50} \\ 146 \end{array}$$

Then dividing the sum by teh number of people interviewed:

$$\begin{array}{r} 3.24 \\ 45\overline{)146} \end{array}$$

The average response for Statement #1 would be 3.24

(c) The process of finding the average for No Opinion - Very Important and No Opinion - Very Well is the same.

SCORING AND INTERPRETING THE RESULTS

Step 2 - After all the items have been scored and the average responses figured out, you find the Index of Need. To do this, you substract the average response on the right side (Occurence) from the average response of the left side (Important). An example is shown below and can be used for all the items.

Rank	Item	Average Response Important	Average Response Occurence	Index of Need
1	1	4.40	2.20	2.20
2	2	4.60	2.40	2.20
6	3	5.00	3.60	1.40
10	4	3.00	2.60	0.40
3	5	4.80	3.40	1.40
5	6	4.80	3.00	1.80
7	7	4.20	3.00	1.20
8	8	3.80	2.60	1.20
9	9	3.20	2.50	0.70
4	10	4.00	2.20	1.80

For example, ststements 1 and 2 have an Index of Need of 2.00, this could be a priority for your program next year. Statement 4 has a Index of Need of 0.40 and probably would be a low priority.

Step 3 - After you have figured out the Index of Need, the items should be put in rank order from the highest Index of Need to the lowest. You can do this in the left side of the form and it is done last. The items at the top would be high priorities when you plan a program for next year and those at the bottom would be low priority.

IF YOU HAVE ANY QUESTIONS PLEASE CALL DICK, LOIS, at ← 218/
335- 2284

K E Y

IMPORTANT ACALE:

TELL THE INTERVIEWER HOW IMPORTANT THIS ITEM IS TO YOU.

1 - Not Important at all.

2 - Unimportant.

3 - No Opinion.

4 - Important.

5 - Very Important.

OCCURANCE SCALE:

TELL THE INTERVIEWER HOW WELL YOU THINK THE ITEM IS BEING DONE NOW.

1 - Very Poor.

2 - Poor.

3 - No Opinion.

4 - Good.

5 - Very Well.

EVALUATION = MEASUREMENT

There are different types of evaluations.

This chart might be of use to you in understanding the types and purpose of evaluations

TIME	TYPE OF EVALUATION	PURPOSE
Before project begins	Needs Assessment	Measurement of needs
During the project	Program Audit Monitoring	Measurement of Conditions
After project has been completed	Outcome Evaluation	Measurement of results

Evaluation - measuring the effectiveness or result of something for the purpose of decision making.

Main Question - What did we accomplish?

When should you plan an evaluation - Before the project starts

A plan for evaluation should be included in your proposal

Data has to be collected during the program year in order for you to measure and evaluate changes.

Who can do an evaluation - Parent Committee members

Parents and students

Staff

Independent evaluator

YOU CAN

Hiring an Outside Evaluator

1. Ask other Indian programs about evaluation they have used
2. Contact several people - explain what you want - discuss with them to get their reactions
3. Call for interviews if necessary check references
4. Have evaluator meet with community people - become familiar with project - become familiar with particular community - discuss various types of evaluation and decide which is best for your community
5. Insist on plan to be submitted by evaluator
6. Meet and negotiate a contract that specifies:
   (a) design to be used
   (b) time frame
   (c) cost
   (d) reports expected
7. Be sure that the evaluation will provide the information you need to make decisions. Some research designs may be admired by other researchers but not of much use to you.
8. Do not just file the evaluation report. Study the findings of the evaluation carefully and use to help you make decisions. The purpose of doing an evaluation is to help you plan your program better - not simply to meet requirements of your grant.

The community must trust the evaluator and the evaluation process in order to fully accept the results of the evaluation. This is one reason why the community should be involved and understand the entire process.

TYPES OF QUESTIONS FOR SURVEYS

Three basic types of questions:

1. DEMOGRAPHIC - vital statistics such as age, sex, income group, race, number of children, type of home, marital status and so on.

2. FACTUAL - establish what respondents actual knowledge is - asks for specific answers to questions;

   example: how often are parent-teacher conferences held each year?

   who is chairman of the school board?

   who is chairman of the Title IV Parent Committee?

3. OPINION - seek information concerning how respondents feel about a particular issue or idea;

   example: the math program in school is good Yes____ No____

   the school district should have a curriculum committe of parents Yes____ No Opinion____

   No____

Two basic formats for questions

1. OPEN-ENDED QUESTIONS - allow greater freedom for answers but is difficult to code answers

2. STRUCTURED - require the respondent to choose between prepared answers

   a. dichotomous-choice questions - have to choose one of two answers

   True-False Yes-No Right-Wrong

   b. scaled multiple-choice - want to clarify how strongly respondents feel about an issue or idea

   Important
   Don't Know
   Unimportant

   Very Good
   Good
   No opinion
   Poor
   Very poor

   True most of the time
   True some of the time
   No opinion
   Not true very often
   Not true at all - never

   c. non-scaled multiple-choice responses - do not seek to establish intensity of opinions. Lists several alternatives for people to choose from

   I like: (a) red (b) blue (c) yellow

   Most important for my child to learn in school:

   basic skills ____ good manners
   communication skills

FIELDWORK APPROACHES FOR SURVEYS

Approach	Advantages	Disadvantages
Mailed questionnaire	can reach large samples at low cost	hard to get 100% response
	personnel doesn't have to be highly trained	no personal contact
	materials can be prepared in advance - distributed on schedule	cover letter and follow-up are only motivation to answer
Drop off-pick up questionnaire	personal contacts aid motivation to answer	may require a large number of fieldworkers
	high response can be achieved in few days	travel time and expenses high
	personnel need little training	requires carefully written instructions for people
	personnel costs low	
	most materials can be prepared in advance	
group administered questionnaire	low cost	limited use
	few staff needed	restricted by availability of people in group
Interviews	personal contact more motivation to answer	need trained interviewers
	high response	high cost if have to pay workers
	chance to gain more data by asking respondent	requires a lot of time
Telephone interview	few staff needed	difficult to get representative sample since many people don't have phones
	no travel costs	difficult to motivate respondents

PREPARING A QUESTIONNAIRE

Review the proposal and program.

Select parts of the program, activities, services and so on that should be evaluated.

Prepare statements for evaluating community response - ask only about one item in each statement.

For example: If you want a tutoring portion of your program evaluated, you could state it:

Tutoring classes in math for Indian students.

Do not state it this way:
Tutoring in Math and Ojibwe for Indian students.

OR

Tutoring in Ojibwe should be offered again.

OR

Tutoring classes in math were good.

Do not write your statements in a way that leads people to an answer they think you favor. If a statement says something was good or should happen, people may tend to answer the same way.

Also, do not confuse people by asking them to evaluate two items (math and ojibwe) in one statement. They may think tutoring in math was effective but unsure of tutoring in Ojibwe. Ask only about one item in each statement.

Review the draft of the evaluation form with a group of community people to see if instructions are clear, statements can be understood, and if words used mean the same thing to most people.

Make changes recommended and discussed by community group if necessary.

Field test the evaluation form.

Make any necessary changes after you field test. Prepare final form.

AICA DESCRIPTION

AICA is a modification of a decision-making process generally known as the Delphi Technique [3.] which operates on the general principal that several heads are better than one in making subjective conjectures about the future, and that experts will make conjectures based upon the rational judgment and shared information rather than merely guessing, and will separate hope from likelihood in the process. The Delphi Technique is used to predict what should happen, rather than what will happen. This technique has been modified in the development of the AICA process because the Delphi attempts to overcome those compromises resulting from round-table discussions such as undue influence from certain psychological factors: persuasion by group members with the greatest assumed authority or merely the loudest voice; an unwillingness to abandon publicly expressed opinions; and, the bandwagon effect if majority opinion. The Delphi Technique is an attempt to overcome these factors by not bringing the participants together in one place and by not reporting individual responses. The AICA process is one which combines the direction of the Delphi with a type of round-table decision-making process. The AICA seeks to overcome the condition referred to earlier in this paper:

> 'Decisions made by several experts rarely reflect refinement that comes from seeing, hearing, and reacting to others' responses.'

Given certain parameters, this process can alleviate those factors that have been defined as 'limiting' with regard to the round-table approach, while reducing the impersonalness resulting from non-interaction imposed by the Delphi Technique in the decision-making process.

AICA consists of basically eight process steps as defined in the following:

STEP 1: Completion of an open-ended questionnaire designed to elicit opinions and definitions of the unique educational needs of Indian students at the present time, and a projection of programs needed to meet those needs. This questionnaire is completed individually by randomly selected respondents, previous to participation in the AICA process meeting. The information received then provides input for the development of a questionnaire related to the needs of Indian students. This information is utilized in the development of the questionnaire, along with consideration for:

1. Present Program Components
2. Indian education public hearings statements
3. General Indian education needs
4. Basic skills needs

In an attempt to insure that all pertinent areas of need are included in the questionnaire, these additional considerations have been included. Much information was extracted from the previous needs assessment instrument developed during the January, 1976, Minneapolis Title IV Needs Assessment.

All selected participants who have agreed to participate in the needs assessment procedure for the AICA process meeting are then brought together for the sessions.

STEP 2: Participants individually judge each needs statement on the questionnaire according to a five (5) point scale established on a continuum from Very Important to Not Important At All.

Step 3: Small group discussion of all needs statements on the instrument in order to discern if, in fact, all needs of the Indian students have been identified. If additonal needs are identified, these are added into the instrument for consideration by the total group at a later time. These needs statements on the instrument are then, following group discussion, prioritized according to the top five (5) selected needs statments by consensus of the small groups. Strong individual disagreement within the small group to the consensus achieved may be identified and presented with the report of the group.

STEP 4: Each small group selects a member of the group as their reporter who then reports to the total needs assessment sample. Reports indicate those priority needs that have been agreed upon in the small groups. Additional needs statements are reported along with strong individual differences of opinion as these might relate to the consensus decision of the rest of the small group members. Total group discussion of the small group reports with an interchange of ideas then follows.

STEP 5: Return of STEP 1 results to each individual participant indicating his/her individual ratings of the needs statments, along with tallies of the group responses for the individual statements. The participant, after examining his/her own ratings in comparison to the rest of the participants, then selects two items with which he/she strongly disagrees and writes a short explanation of why.

STEP 6: Five (5) needs statements which the respondents most strongly disagreed with are then presented to the total group, along with those reasons stated by the individuals supporting their position of disagreement with the majority opinion.

STEP 7: After discussion, respondents individually select those needs statements, including any that have been added, afterthe small group discussions, in order to identify those ten (10) needs statements which they, as individuals, most strongly feel are the ten most critical needs of the Indian students at the present time. Careful instructions must be given in order that individuals carefully consider those minority and majority opinions which have been discussed and any related interchanges. It is very important that the respondents make their own value judgements and the knowledge of minority and majority opinion, without being unduly prejudiced by this knowledge. The information should provide the respondents with additional perspectives for judging the needs statements. The fact that individuals are anonymously and independently completing this step seeks to alleviate pressure on individuals to comply with conceptions of how the statements should be rated (persuasion). The respondents then prioritize the ten statements in order of importance of need. Participants are then free to leave.

STEP 8: Calculation is then made of the individual responses in order to determine those needs that have been assessed in priority order, by this particular randomly selected group of individuals.

The AICA process will then provide the program administration and concerned groups with individual considerations of needs of Indian students, with an additional opportunity of having these needs discussed in open session. Additional perspectives are provided within the individual participants' rating process.

AMERICAN INDIAN CONSENSUS ASSESSMENT

SPECIAL NEEDS OF AMERICAN INDIAN STUDENTS IN PUBLIC SCHOOLS

MINNEAPOLIS PUBLIC SCHOOLS TITLE IV INDIAN EDUCATION

Approach:

Proportional Stratified Random sampling according also to the proportional distribution of population from the general south to general north areas. Population groups will include: Indian students, grades 7-12; parents of all Indian students in the Minneapolis Public Schools; Public School Personnel including classroom teachers, administrators, social workers in those schools in which the Indian students attend.

Fifty-five individuals will be contacted in order to obtain a commitment to participate in the American Indian Consensus Assessment. A form will be sent to each individual who has made a commitment to participate in order that each respondent can provide initial input into the development of the Needs Statements. Self-addressed stamped envelope will be included in order that each respondent might easily return the requested material. 100% return is not mandatory. Respondents do not need to respond in order to participate in the Consensus Assessment process. Respondents will be remunerated at the rate of $20.00 for participation in the meeting. Remuneration will be made at the completion of the meeting.

Return will be synthesized. Additional relevent needs information will be reviewed by team in order to insure a comprehensive base of needs statements. Printing, scheduling process will then be completed.

Personal contact with all identified respondents in order to follow-up individual committments to participate.

Consensus Assessment Meeting:

Step 1: Orientation, Presentation of Needs Statements. Individually rate 1-5 each needs statement.

Step 2: Role groups will prioritize, after discussion, the top five needs statements

AMERICAN INDIAN CONSENSUS ASSESSMENT

QUESTIONNAIRE

Please rate each of the following needs statements according to the degree of importance of each in the Minneapolis Public Schools. Use the following scale for your rating:

5 = VERY IMPORTANT 4 = IMPORTANT 3 = MAY BE IMPORTANT, MAY NOT BE

2 = NOT IMPORTANT 1 = NOT IMPORTANT AT ALL

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1. Indian students need Indian people to serve as advocates for them in the schools. 5 4 3 2 1
2. Indian teacher aides are needed in the regular classrooms, in schools in which Indian children are enrolled 5 4 3 2 1
3. Indian parents need to have Indian people keeping them informed of their children's progress and/or problems in the schools. 5 4 3 2 1
4. Indian students need to have a choice in the kind of educational programs they will become involved in. 5 4 3 2 1
5. Indian counselors working with Indian students are needed in the schools. 5 4 3 2 1
6. Indian parents need to learn about the educational programs specially designed for Indian students in the schools. 5 4 3 2 1
7. Indian parents need to learn about the educational programs in the schools. 5 4 3 2 1
8. Indian students are in need of after-school recreational activities coordinated by Indian people. 5 4 3 2 1
9. Indian people need to organize educational programs for Indian students who have been pushed/dropped out of school. 5 4 3 2 1

- PAGE 2 -

11. Tutorial, remedial assistance is needed by some Indian children. 5 4 3 2 1

12. Out-of-school cultural activities are needed by Indian students. 5 4 3 2 1

13. Indian students need to have the opportunity to learn to speak their Native language. 5 4 3 2 1

14. Programs are needed to support those Indian children who are specially talented (art, music, writing, etc.). 5 4 3 2 1

15. A newsletter is needed by the Indian community and others interested in order to find out what is going on in the field of Indian education in the public schools. 5 4 3 2 1

16. Indian students need to become involved in volunteer projects in the Indian community. 5 4 3 2 1

17. Indian families need to have Indian people in the schools available to them to help them with school-related problems. 5 4 3 2 1

18. Schools need to have Indian people working with them who are accessible to Indian students for talking over student problems. 5 4 3 2 1

19. Instructional programs are needed in the schools in order to teach Indian students traditional Indian arts and crafts skills. 5 4 3 2 1

20. Instructional programs are needed in the schools in order to teach Indian students background information about traditional Indian arts and crafts activities. 5 4 3 2 1

21. Indian students need to have financial assistance available to them for health expenses, such as glasses, dental work, etc. 5 4 3 2 1

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5 = VERY IMPORTANT 4 = IMPORTANT 3 = MAY BE IMPORTANT, MAY NOT BE
2 = NOT IMPORTANT 1 = NOT IMPORTANT AT ALL

22. Indian people need to work with school personnel in order to develop Indian cultural activities for regular classroom use. 5 4 3 2 1

23. Indian students need to have financial assistance available to them for driver's education courses. 5 4 3 2 1

24. Indian students need to learn about contemporary Indian issues and problems. 5 4 3 2 1

25. Indian people need to be kept notified about school programs and activities by Indian people. 5 4 3 2 1

26. Summer school activities are needed by Indian students. 5 4 3 2 1

27. Indian students need to be able to help develop their educational programs which can meet their own needs. 5 4 3 2 1

28. Indian students need to work with Indian people in order to define their own goals in school. 5 4 3 2 1

29. Indian people need to work with Indian students and their families in order to solve absentee problems. 5 4 3 2 1

30. Indian people need to work with the public schools in order to plan programs for improving the educational opportunities for the Indian students. 5 4 3 2 1

31. There is a need for Indian students to give tutorial assistance to other Indian students. 5 4 3 2 1

32. Indian students need to have Indian books, films, records, tapes, etc., available to them in the schools. 5 4 3 2 1

33. Courses in traditional tribal cultures and history need to be available to the Indian students in the schools. 5 4 3 2 1

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5 = VERY IMPORTANT 4 = IMPORTANT 3 = MAY BE IMPORTANT, MAY NOT BE

2 = NOT IMPORTANT 1 = NOT IMPORTANT AT ALL

34. Summer cultural/recreational programs need to be available to Indian students.	5	4	3	2	1
35. The opportunity for Indian students to attend all-Indian alternative schools within the public schools is needed.	5	4	3	2	1
36. Information about college programs, scholarships, etc., is needed by the Indian students.	5	4	3	2	1
37. There is a need to have Indian elders come into the school classrooms to teach about Indian culture and history.	5	4	3	2	1
38. Opportunities for Indian students to be in above average classes are needed in the public schools (accelerated programs).	5	4	3	2	1
39. Information needs to be provided to the Indian students in the schools about health services available to the students and their families.	5	4	3	2	1
40. Indian students need assistance for school expenses such as athletic fees, graduation fees, clothing expenses, etc.	5	4	3	2	1
41. Information is needed by Indian students about job training programs, employment, etc.	5	4	3	2	1
42. Programs are needed by Indian students to learn about drug and alcohol abuse.	5	4	3	2	1
43. Indian students need to have counseling available on drug and alcohol problems which would be provided by Indian people.	5	4	3	2	1
44. There is a need for programs which meet the needs of Indian students who have special education problems.	5	4	3	2	1

5 = VERY IMPORTANT 4 = IMPORTANT 3 = MAY BE IMPORTANT, MAY NOT BE

2 = NOT IMPORTANT 1 = NOT IMPORTANT AT ALL

45. Standards for evaluating Indian educational materials need to be provided in the public schools. 5 4 3 2 1

46. More programs are needed in order to insure students learn their basic skills (the three "R's"). 5 4 3 2 1

47. There is a need to create positive attitudes toward the heritage of Indian students, on the part of non-Indian school personnel. 5 4 3 2 1

48. The Title IV Program needs to keep the Indian community informed of Indian education programs and activities through other than a newsletter medium. 5 4 3 2 1

49. There is a need to provide Native American cultural instruction in all Minneapolis public schools. 5 4 3 2 1

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5 = VERY IMPORTANT 4 = IMPORTANT 3 = MAY BE IMPORTANT, MAY NOT BE

2 = NOT IMPORTANT 1 = NOT IMPORTANT AT ALL

Step 3: Total group discussion reporting sub-group ratings. Interchange of ideas by role group.

Step 4: Return of Step 1 results to each individual comparing their own results either with the mode for each needs statement or with the distribution results for each item. Individually pick two items with which respondents strongly disagree with the mode, and write short explanation of the reasons they strongly disagree.

Step 5: After short calculation, team will present the five items which the respondents, most strongly disagreed with. Each item will be individually discussed, with a verbal presentation of the reasons why the respondents strongly disagreed with each statement. Discussio of each statement. General discussion of these results.

Step 6: After discussion, respondents will individually select top 10 statements from original list and prioritize in order.

Step 7: Calculation of Step 7 return, according to total group response and according to population group response(demographic data will be requested on the form provided in Step 6).

STATEMENT OF RICHARD W. TANNER, COORDINATOR, JOHNSON-O'MALLEY PROGRAM, DIVISION OF EDUCATION, MINNESOTA CHIPPEWA TRIBE

Mr. TANNER. I am Richard W. Tanner. On behalf of the Minnesota Chippewa Tribe, I am honored to present the following testimony.

The Johnson-O'Malley program as administered by the tribe is centered on community and local control. The policy is developed by the tribal education committee with the technical and statistical assistance coming from the division of education.

The policy recommendations are submitted to the tribal executive committee, the governing body for ratification. The policy is implemented by the division of education and Johnson-O'Malley administrative staff.

The policy developed is supplemental to and/or clarification of Public Law 93-638, and the administrative regulations in CFR 25, parts 271, and 273.

Mr. QUIE. A copy of your complete statement will appear in the record. Would you prefer to read it, or would you like to summarize?

Mr. TANNER. I would like to read the whole thing.

Mr. QUIE. Go ahead.

Mr. TANNER. Among the policy and direction approved by the education committee and tribal executive committee includes election guidelines (attachment I), program guidelines (attachment II), and needs assessment models (attachment III), and evaluation models (attachment IV).

I might add something which is not part of the testimony, the assessments are done by parent committees, and the evaluations are done by them. We have a number of training programs which our office has sponsored during the year. We ran four or five different training programs during the year for parent committees to do a number of administrative tasks, and carrying out the duties that they are charged with.

The election guidelines outline a procedure for elections of Indian education committees in local school districts, thereby eliminating school superintendents committee appointments.

The procedure involves open hearings for community members as well as taking nominations from the floor for candidacy to the committees. The election guidelines establish an election board who makes notice of election times, and places, distribute ballots, tally results, and certify candidates and election results.

The election guidelines also define qualifications for candidacy and membership on the local Indian education committee with the intent of placing authority for program in the hands of those most affected by the program, that is, eligible Indian parents and students.

The program guidelines were developed to encourage certain programs such as tutoring and culture classes in an attempt to make more efficient use of limited funds. The program guidelines are also designed to give local Indian committee members examples of program ideas.

The development of comprehensive need assessment models was the most important and influential aspect of the JOM program in the last 2 years. The models were based upon a community opinion survey and the Delphy method.

The community opinion survey uses a series of questions based upon the local community concepts or problems as well as certain universal concepts in Indian education. The needs assessment statements have value rating of 1 to 5 on "what is now" and "what should be." The community survey instrument used 30 to 89 locally tested statements.

The local Indian education committees administered the instruments, tallied. and analyzed the results. An index of need was derived from the comparison of "what is now" and "what should be." The index of need was compiled from all the statements and then ranked according to need from the highest to the lowest priority.

The needs assessment instrument was administrated to a random stratified sample of students, parent, teacher, school administration, and in some instances school board members. Indian education committee members, teacher aides, tutors, home-school coordinators, and community members were the interviewers.

The need assessment operated in the 85 percentile with a tolerance of error at plus-minus 15 percent given to a sample of 100 percent of members in smaller communities, to 46 or 96 people in large communities of 25 percent of the population depending upon size of the community.

The Delphi method, or what we call the "American Indian consensus assessment model" operating on the assumption that many heads are better than one in assessing the needs of a given community.

The AICA model uses many of the same procedures and methods as the community survey and operates in the same percentile and tolerance of error range. The major difference is that instead of personal interviews, groups were gathered to discuss and rank each needs assessment statement.

Discussions and analysis of each statement plays an important part in the process with much give and take until a consensus is reached on a given number of priorities. The AICA model allows for a minority opinion.

The Delphi method was modified to take into consideration Chippewa social and governmental characteristics. The modification also enhance the consensus method of decisionmaking that is common to Chippewa Tribes.

Nineteen of twenty-one Indian education committees in 1976–77 completed the needs assessment. One used an outside consultant, who used essentially the same model and the other used a statistical and data analysis.

It is also surprising and astonishing that people with an average educational level of 9.8 years completed a needs assessment commonly used by people having masters degrees or scholars working on their doctoral dissertations.

The amount of errors in the needs assessment was small and no greater than the errors committed by the professional researchers. The errors included incomplete questionaires, statements misunderstood by the interviewers, and improper markings of the value ratings.

The errors were kept to a minimum because of the workshops and training sessions that were held. Four regional workshops were held for a 2-day period plus training in local school districts on a "as needed" basis. There were also many telephone calls for advice, clarification, and assistance.

The analysis of the results and index of need were used to plan and develop long- and short-range goals for the overall development of the local program.

The needs assessment cause a radical change in the programs and in other cases reinforced and documented the program need. The changes were from a teacher aid program which helped all children in a classroom to one offering more services concentrated on only Indian students in tutorial and counseling programs.

The reinforcements were made in the area of drug education and counseling, which by the way was the most commonly recurring item along with culture, language, and Chippewa history courses.

The needs assessment also documented the need for "dropout" prevention programs and more intensive work in assisting those students who have been pushed out of school.

Another ranking priority was the need for more community based educational efforts such as tutoring, cultural, and recreational activities in an Indian community center, to provide quality and qualitative services to Indian students close to home and in an environment they feel more comfortable in.

The evaluation models from onsite visits, using the local program as a guide, to financial overviews checking receipts, expenditures, vouchers, and financial balance sheets. Developed are program audit monitoring for midyear use to measure the present condition of the program and outcome evaluation using community opinion survey instruments and data collecting on grades, attendance, tardiness, graduates, and other demographic data.

One evaluation model is based upon a community open survey using the same methodology as the needs assessment. This is done so that the local Indian education committee is familiar with proper research methods, thereby enhancing the outcome of the evaluation results and providing them with useful information for judgment and decision-making.

In Minnesota, basic support funds go to five Indian community elementary schools, with the funds earmarked for specific staff and services. The funds are supplemental to State, local and Federal funds, with the Indian community school getting a prorata share of State foundation aid, 874, hot lunch, transportation, and other receipts.

The local contribution in two schools is in excess of local and county resources. In the case of Nett Lake, there is little local contribution as there is little taxable land and in Pine Point no local contribution because there is no taxable land.

The basic support program is designed around community identified educational needs. At the present time, the JOM basic support funds go to supplementing and providing expanded services to Indian students and community.

The majority of the expanded services go into teacher salaries to maintain a professional full-time staff ratio higher than the State average, for example 18 to 1 to 14 to 1. The basic support funds also go into operation and plant maintenance. The age of the building and the distance from fuel sources increase the price of fuel oil. The rate of inflation and increased salaries for teachers and support staff increase by 10 to 18 percent each year, thereby adding to the cost.

The basic support programs are beginning to show results in terms of performance by Indian students when reaching junior and senior high school. For example, Nett Lake elementary students entering Orr in the seventh grade show improvement in academic classes and participation in extracurricular activities.

In 1976–77 school year, 50 percent of the Orr Junior High School students made the A or B honor roll at one quarter of another. Two Indian students were named to the National Honor Society, a privilege never before bestowed upon a Nett Lake/Orr Indian student.

Approximately one-third of the 94 students in Orr High School participate in extracurricular activities versus about 1 to 2 students total in the past. Some Indian students have become outstanding athletes in their respective sports.

Of the 11 students who entered seventh grade, 7 graduated in 1976–77 school year, having a retention rate of 63 percent compared to a dropout rate of 90 percent a few years ago.

On the Grand Portage Reservation the dropout rate in the past 6 years has been zero percent. That is, all the students completing Grand Portage Elementary School go on to graduate from Cook County public schools.

The supplemental programs, as based upon the needs assessment, are tutoring in math, reading, communication skills, parental cost items, culture courses, drug education, work-study, counseling, and a list of others.

The effectiveness of the programs on the academic and social well-being is documented by the evaluations and data gathered. In Sandstone, the average daily attendance increased from 67 ADA in 1975 to 87 ADA in 1976.

In 1976, 98 percent of all graduating seniors entered college, vocational school, the Armed Forces, or the work force. The other 2 percent married. The yearly "dropout" rate went from 50 to 15 percent on the average for the 21 school districts.

The advances made by the Minnesota Chippewa Tribe are threatened by a constant decrease in funding, increasing enrollment with no additional funds, and the increasing cost of living.

In the case of basic support, the funds are being phased out. These two facts are a step backwards for tribal people and contrary to self-determination.

The amount of funds received by the Minnesota Chippewa Tribe were: $893,116 in fiscal year 1975, $889,181 in fiscal year 1976, with transition quarter funds of $149,736. We will receive an estimated $596,505 in fiscal year 1978, and we have an increased number of students. In fiscal year 1977, we also received $125,000 earmarked for Pine Point.

The decrease in funds case a reduction in staff and programs in local school districts and have the potential of wiping out the progress made so far. The reduction in funds also has a demoralizing effect on Indian community people.

In 1976 Tower-Sudan graduated its first Indian student from Vermillion Indian community in 38 years and in 1977 graduated its second in 39 years. When both were asked "why and how they graduated," they both responded: "Because the Indian community was behind me and supported me."

The phasing out of basic support funds, and the rules stating that no school is eligible to receive basic support funds if it has less than 70 percent Indian enrollment, take away the only effective voice Indian people have in the operation, curriculum, and services the school districts provide.

With the JOM funds, Indian parents are able to determine curriculum, text books, and those services as mentioned in CFR 25, part 273.16. The legal authority to impact the quality of education will be limited only to special programs under JOM with the phase-out of basic support funds. This would be a step backwards for Indian people.

The phaseout will also affect the morale of Indian people who do not want to see the schools revert back to what they were a few years ago. More importantly, three of the five Indian community schools will be closed. The closing of the elementary schools will mean much hardship for the Indian children.

In Grand Portage the students will have to be bused 80 miles per day, in Naytahwaush 50 miles per day. The busing will place Indian students in an alien and many times an unfriendly environment in their most important and formative years.

In order to continue the operation of the five Indian community elementary schools, the Minnesota Chippewa Tribe proposes four options for your consideration:

(1) Amend CFR 25, part 273.12 and 273.31, thereby eliminating the phaseout and allowing Indian community schools to continue;

(2) Create a new cost code item in 3100 column of the Bureau of Indian Affairs budget and appropriating needed and necessary funds;

(3) Funding coming from the Office of Education under Public Law 874, with necessary change in rules and regulations and increasing appropriations;

(4) Waiver of CFR 25, part 273.12 and 273.31 to allow the Indian community elementary schools to continue and appropriating supplemental funds.

In order to keep the five elementary schools open and providing the services, and curriculum deemed desirable and necessary by Indian students, parents, and education leaders, $419,743.51 is needed.

The breakdown is as follows:

Naytahwaush, $41,861.52; Nett Lake, $130,109.32; Pine Point, $175,230.35; Grand Portage, $32,891.00; and White Earth, $39,567.71.

The amount needed to continue the present programs at their present level is $1,046,505.00 to cover services to 3,454 students.

The Minnesota Chippewa Tribe is greatly upset with the effect the present distribution formula is having on the level of funding we are receiving. We are upset not only because of the reduced funding, but also because the formula approved by the majority of Indian groups and people was not adopted.

The tribal leaders cannot understand how in a democratic society one Member of Congress can overrule a majority tribal opinion——

Mr. QUIE. He is a Senator.

Mr. TANNER. How one Senator can overrule a majority tribal opinion especially in an era of self-determination.

The Minnesota Chippewa Tribe urges the adoption of a formula that takes into consideration the cost of education and rate of inflation in

Minnesota. It should not penalize the State because of the high cost, as the present formula does.

The Minnesota Chippewa Tribe in the past has endorsed a formula based upon a weighting factor outlined in option C, of the Bureau of Indian Affairs memorandum of January 3, 1977. This formula, we believe, is fair and equitable even though only part of the high cost in Minnesota is taken into consideration.

In closing, I respectfully request that one of the options for keeping Indian community schools be adopted, and a formula equitable and beneficial to a majority of State and Indian tribes be adopted by the Bureau of Indian Affairs.

I also request that supplemental funds be granted to the Minnesota Chippewa Tribe at a level equal to fiscal year 1977 for both supplemental and basic support costs.

Gentlemen, on behalf of the Minnesota Chippewa Tribe, I thank you, for your time and consideration.

Mr. QUIE. Thank you, Mr. Tanner. We hope to have a fair and equitable formula. One variation that I see on that is that Alaska is in a peculiar situation, being an extremely high cost place. We need to make an adjustment for Alaska, to make it more fair.

Do any of the other people from the Minnesota group want to say anything?

[The prepared testimony follows:]

Statement of Testimony
by
Roger T. Aitken, Executive Director
Leech Lake Reservation Business Committee
and
Micheal Schmid, Director
Chief Bug-O-Ne-Ge-Shig Alternative School
for
Hartley F. White, Chairman
Leech Lake Reservation Business Committee
Cass Lake, Minnesota

Regarding
"Indian Alternative Schools"

Before
The Subcommittee on
Elementary, Secondary and Vocational Education
and
The Advisory Study Group on
Indian Education
of
The Committee on Education & Labor

2257 Rayburn House Office Building
Washington, D.C.

October 5, 1977

STATEMENT OF TESTIMONY

Leech Lake Reservation
on
Chief Bug-O-Nay-Ge-Shig School

The great irony and perhaps tragedy of Bug-O-Nay-Ge-Shig School is the fact that it has to exist at all. The school's history is of overwhelming institutional inertia even in the face of a well-documented need.

The idea for an Indian school in Cass Lake was talked about for years. The feeling of Indian people was that the Cass Lake School District #115 simply wasn't responding to the needs of Indians. The reason was simple -- Indian children were turned off by the white-dominated institution. For most students, this turn-off period seemed to occur in about the 5th or 6th grade. A study on the Pine Ridge Reservation by Rosalie Wax indicated that this was the case there also.

However, nothing occurred on the idea until 1973 and after. The reason was the contracting for Johnson O'Malley funds by the Minnesota Chippewa Tribe in 1973. In lieu of State of Minnesota, contracting was followed by demands by Indian people that JOM funds be spent for only the benefit of Indian children and that the Indian community be directly involved in administration of the program. The demands were granted as they were required by law . The result being an energized local Indian Education Committee, now known as the Cass Lake-Bena Local Indian Education Committee, Inc. or LEIC.

After a few meetings the Committee realized that many Indian parents were dissatisfied with the quality of education given their children. Research into the problem revealed dismal statistics...

The LIEC recognized that complete change was impossible and undesirable for a variety of reasons. Among them (1) many children's problems were not necessarily with school, and (2) racism in the community or the school system could not be immediately overcome. So the LIEC concentrated its efforts on those students who had the most difficulty in the past and who weren't making it in the Cass Lake school system. Research and common sense showed that those most in need of immediate help were students from grades 7-12.

It was determined that the best type program would be one that would reinforce Indian children's tribal heritage as well as provide more personalized instruction in basic skills such as reading, mathematics, social studies, English, and Science.

The committee realized that such a program could be appropriate for the needs of Indian children as well as non-Indian. So it was determined the best means of providing this type program needed was a school-within school, an alternative to the present mainsteam program but operated under the aegis of the District. However, the LIEC also realized that for a program to succeed with Indian students it would have to be administered with real input and power given to Indian people through the Committee.

To put matters mildly, Indian people were skeptical that the district's administration would consider Indian children in running an alternative program. The high school principal John Flora summed up his feelings about the unique educational needs of Indian children in a conversation with a reporter from the Christian Science Monitor, "Aren't we all minorities in our own little way, anyway." Flora's attitude was similar to many of the school's administrators, teachers and board members and well-known to Indian people. Consequently the LIEC felt the school administration could not be trusted with a true alternative program.

The LIEC's original proposal submitted in February 1975 after a year's research called for an alternative program aimed at approximately 30 students, both Indian and non-Indian. The school board rejected the proposal. Instead it opted for researching the whole idea. Faced with no other choice, the LIEC agreed.

A number of task forces were set up, composed of board members, administrators, teachers, state educational personnel, and a few Indian parents. They were charged with investigating various aspects of alternative education---curriculum, teachers, buildings, etc. None of the task forces ever accomplished anything.

By the beginning of the 1975-76 school year, the LIEC wanted action on the proposal. The administration originally seemed interested. The school budget published in the local paper, appropriated $75,000 for an alternative program. However, when questioned by the LIEC's lawyer a week after the budget's publication, the Superintendent stated there actually wasn't any money available. He went on to say that the $75,000 figure was drawn out of the air and should not have been regarded as having any meaning.

As for the school board, at one meeting in October it accepted the program but then a week later changed it's mind. Instead the school's administrators offered a hastily drawn plan copied from a suburban St. Paul suburban district that had no Indian component.

The LIEC rejected the proposal and the next day Indian children walked out of the District's schools. One white teacher demonstrated his feelings about the whole affair by making an obscene gesture at the Indian children as they left the school.

The LIEC set up its own school three days after the walk-out. Several teachers were hired and a building was rented with funds from the Leech Lake Reservation Business Committee. After several weeks, enrollment leveled off to around 35 students, mostly Indian but with several non-Indians.

Three weeks later, the LIEC filed a complaint with the Minnesota Human Rights Department alleging a systematic pattern of racial discrimination by the District. The Department's chief investigator called the complaint the most massively documentation of institutional racism ever received by the agency. The complaint pointed out Indian children had drop-out rates three times that of white children, that Indian grades were substantially lower than non-Indian children, that only 2% of the District's employees were Indian in a district having 50% Indian population, and that few Indian children were active in school extra-curricular activities.

The Indian school operated independently until February 1976 when a meeting with the Minnesota Commissioner of Education, Howard Casmey resulted in an agreement that the District would pay for the school's operation for the remainder of the school year out of state financial aids. Also included in the agreement was that State Department staff would mediate the dispute.

At this point, bureaucratic inaction and lack of resolution set in. Nobody from the State Department ever came to Cass Lake to mediate with either the LIEC or the school board despite requests from both parties. No investigative action was taken by the Human Rights Department until approximately a year from the filing of the complaint when a one page letter was sent to the District requesting some minor data. The Department hasn't been heard from since.

By the Fall of 1976 Commissioner Casmey had decided that the school's operation in a separate building was illegal, contrary to the state's civil rights statutes. He made this decision without the benefit of an on-site visit or a written legal opinion. The assistant attorney general assigned to Department of Education told LIEC representatives that he thought the school was illegal because it wasn't teaching "straight" history---meaning that the history of the Chippewa and other Indian nations was being emphasized at the expense of tales of so-called early explorers. Amazingly by this tie the Cass Lake school board said it wanted the program but that it wouldn't approve the program without state approval. Ironically, the one official body to take a close look at both the school and the federal and state statutes, the Minnesota Advisory Commission on Civil Rights declared in February 1977 that it found nothing in the law to justify declaring Indian alternative schools such as Bug-O-Nay-Ge-Shig as illegal or unconstitutional.

In December 1976 the state School Board offered to recognize the legality of the school if it adopted certain changes, changes which would have stripped the LIEC of any input into the program's operation. A few days later the LIEC rejected the offer and requested Bureau of Indian Affairs for financial assistance in operating the school. The request was granted.

Why was the LIEC so admant about demanding control? Knowledge of the local situation led Indian parents to believe that without real power given to them, education would continue to be irrelevant for their children. A reading of national history of Indian Education revealed to them the same sorry fact; that non-Indians have proven themselves to be incapable of making proper decisions when it comes to educating Indian young.

Probably the most significant political lesson the LIEC learned in its experience in establishing Bug-O-Nay-Ge-Shig is that institutional inertia can be as deadly to Indian people's hopes and aspiration as small town racists. The actions of the various state agencies involved demonstrate that bureaucracies and law established to help minorities can just as often be turned against them.

The LIEC and the Leech Lake RBC realize that additional legislation cannot change bureaucratic habits and intransigence. We also realize that our system, the states, not the federal government, have chief responsibility over education. So we don't have a laundry list of legislative ideas to present, we do feel two changes could be of use though. The first are recognition that Indian alternative schools and programs are not in violation of federal civil rights statutes. The National Advisory Committee on Indian Education has already proposed such a step.

The second relates to day-to-day operation of Indian schools. This year Title IV (b) grants to schools such as Bug-O-Nay-Ge-Shig were not made officially until September. No education program can effectively operate with that kind of short notice funding.

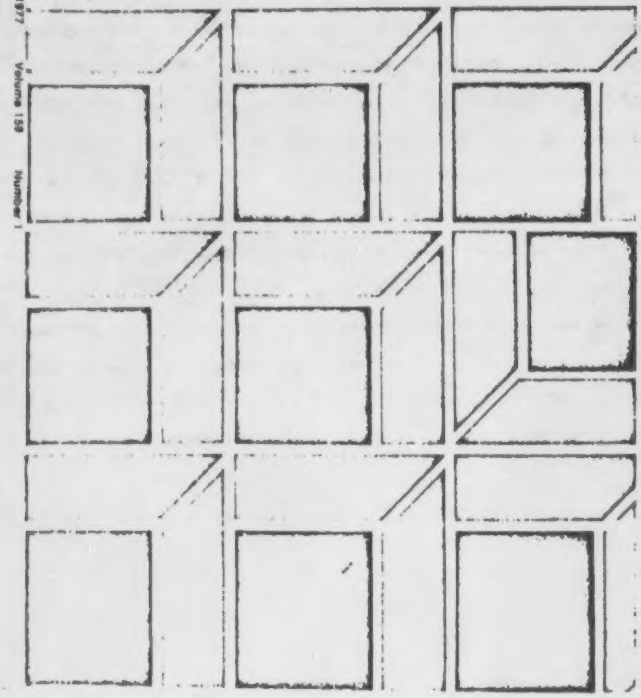
We just emphasize in conclusion, our firm belief that the parent and community component in all federal Indian educational programs must remain strong. Only if we are involved in the education of our children, will they receive an education that relates to their own personal needs.

Journal of Education
Published by Boston University
School of Education

February/1977
Volume 159
Number 1

Community Participation in Education: Part II

*Don Davies and Mario Fantini,
Guest Editors*



Journal of Education February/1977 Volume 159 Number 1

JOURNAL OF EDUCATION
765 Commonwealth Avenue
Boston, Ma. 02215

Second-class postage
paid at Boston, Mass.

Indian in Education: One Community's Experience

Kenneth Peterson
Leech Lake Reservation
Legal Services Project

American Indians have historically been denied the opportunity to participate in policy-making in schools. Now because of belated recognition of tribe's rights to self-determination and because of an awareness of past failures, Indian people can have a voice in their children's education.

The original aim of institutionalized Indian education was to separate Indian children from their tribal past and encourage them to adopt the ways of white people. This was often done by sending children hundreds of miles away from their home and reservations to boarding schools. Termed assimilation, this policy has been judged a failure by educators, congressional committees, and Indians themselves. Today federal assistance programs require involvement by Indian parents and students both in reservation and urban schools. By exploiting these programs, Indian parents can change the type of education provided their children. A case study demonstrating possibilities of participation is the focus of this article.

Unfortunately special federal spending programs can and do end. Hence, Indian parents, while participating at the local level, must advocate the development of new permanent law guaranteeing their children the right to a bi-cultural education.

Introduction

Today for the first time Indian people can be in a position to determine the quality of education for their children. The reasons for this new found power are a swirl of federal laws, court decisions, and administrative regulations affirming Indian peoples' right to advise and in some cases control institutions educating their own children. No other racial or cultural minority group possesses as much potential authority in their local public school systems. The impact of such power can and should be continual recharging of Indian culture and values as well as preparing young people better for successful, happy, fulfilled adult lives.

The obstacles to successful participation in education are also great.

Local school boards resist change with a rare tenacity while state and federal education bureaucracies ignore or gloss over blatant violations of statutory and case law. To overcome these obstacles Indian people must be prepared to utilize every organizational and legal device available to them. Only by doing so will they be able to achieve a meaningful education for their children.

Indian participation is examined in the article by a detailed look at one community's experience — that of the Minnesota Chippewa in Cass Lake, Minnesota, on the Leech Lake Reservation. Because the goal of the Cass Lake Chippewa have not yet been achieved, this article's view is that of a work in passage. An exhaustive review of all participation possibilities under federal and state law is not intended. Instead one community's attempts at Indian participation in educational policy is dealt with. That presentation is preceded by an overview of the history of federal Indian educational policy and fleshed out by a sketch of existing legislation and brief presentation of a legal theory for bicultural education.

History of Education Policy Toward Indians

Alexis de Tocqueville, in ***Democracy in America***, says of the American Indian, "far from desiring to conform his habits to ours, he loves his savage life as a distinguishing mark of his race and repels every advance of civilization." The Frenchman's characterization of Indians' continued insistence on retaining a uniquely Indian culure is remarkably accurate today, 140 years after its writing. The most remarkable fact about Native Americans is that so many have held steadfastly loyal to their own values in the face of what appears to be planned cultural genocide.

Froma legal or political perspective, the chief reason that Indian people have managed to retain their unique identity is because of the existence of tribal groups. Tribes are hybrid governmental units in our federal system. They are neither states or nations. Tribes are sovereign units whose autonomy preceded that of the federal and state government. The unique status of tribes is specified by the Constitution's statement that federal government has the power to regulate affairs with the various tribes just as it regulates affairs in foreign nations. The Articles of Confederation in Congress passed in 1787 as part of the Northwest Ordinance is today a useful reminder of original federal policies toward Indians:

> Utmost good faith shall always be observed towards the Indians; their land and property shall never be taken from them without their consent; and in their property rights and liberty, they shall never be invaded or disturbed, unless an unjust and lawful war is justified by Congress . . .

Justice John Marshall laid out the basic rule of Indian law when he termed the tribes, "dependent and subordinate nations" (*Worcester* v. *Georgia*, 5 Pet. 515, 1832). The political nature of Indian tribes remains today what it was in Marshall's time. Their power over their own affairs is absolute except when specifically limited by the federal government. See *Williams* v. *Lee* 358 U.S. 217 (1958); *Mancari* v. *Morton* 417 U.S. 483 (1974); *Bryon* v. *Itasca County* 96 S. ct. 2102, (1976). Hence evolved the simple but adequate axiom the Indian leaders and friends today use to justify the hybrid nature of Indian participation in Indian educational quality: "a Indian is a member of a tribal group having a unique relationship with the federal and state governments."

In education, the result of tribes' possessing this unique relationship is that to a certain extent the traditional autonomy of the local school districts over teaching of the young is reversed. The federal government, through a number of special programs, dictates policy-making roles. In other words, the federal government, not the local one, to a large degree calls the shots in Indian education. It has done so since it first took on legal responsibility for Indian education in the Act of March 3, 1819 (3 Stat. 516). That act is designed to provide "against the further decline and final extinction of the Indian tribes, adjoining the frontier settlement of the United States, and for introducing among them the habits and arts of civilization." Under the Act the President has full authority in every case that he deems suitable and "that the means of instruction can be introduced with their own consent:"

> to employ capable persons of good moral character, to instruct them in the mode of agriculture suited to their own situation and for teaching their children in reading, writing and arithmetic . . .

This act today serves as the organic basis of Bureau of Indian Affairs Boarding schools. Historically, the Act marks the first time that the federal government took on the responsibility of educating Indian children outside of the traditional treaty relationship. (The first instance of federal aid to Indian education is in a 1794 treaty with the Stockbridge Oneida and Tuscarora tribes providing for three years instructions in the art of being millers and sawyers.)

Despite the Act, Congress was very parsimonious in exercising the federal government's role in Indian education over the next half century. What little money was spent was done by funnelling a tiny annual appropriation through missionary societies to introduce to Indian children "the habits and arts of civilization." For example, from 1845 to 1855 only $102,107.14 was [illegible] on Indian [illegible] United States

Treasury. Much greater sums were spent by Indian treaty funds, private donations, and the tribes themselves.

However, by the 1880's the conquest of the territorial integrity of the tribes by warfare, disease and relocation was complete. With its conquest the federal government was charged with the responsibility of all Indians. It chose to exercise that responsibility by advocating assimilation, what could today be called "phasing out Indians."

The chief weapon of assimilation was the allotment program. Under the program the goal of allotting lands was to break up tribal units and turn Indians into yeoman farmers. One result was that between 1887 and 1934 collective tribal land holdings were reduced from 138 million acres to about 48 million acres. Much of the individual holdings were likewise lost by ill-advised sales and tax forfeitures.

The philosophy behind allotment was stated by Senator Charles A. Dawes (R. Mass.) the principal author of the General Allotment Act of 1887 (The Dawes Act):

> Teach them the law of possession – working for themselves, almost as important as the law which the Christian teaches him . . . The two must go hand in hand, they must be taught how to work, how to take care of themselves, and then he must have the elevating influence of the Christian religion to inspire, and make him feel that to do this makes a man of him . . . In this way you will have done some good by making him a citizen of the United States residing upon a homestead.

Education played a key role in assimilation policy as with the allotment program. The idea was to Christianize and de-tribalize Indian youngsters so they would not wish to return to the ways of their fathers. Little emphasis was placed on giving children the agricultural or technical skills necessary for survival in the Brave New World of the whites. Instead it was hoped that by a combination of English speaking instruction, lectures on the work ethic, hair cuts and Bible instruction that Indian children would grow up to be brown-skinned versions of the white man. In short, Indian students were taught the hopeless inferiority of their culture and showered with the superiority of white culture.

Bureau of Indian Affairs schools were most often used for educating Indian children though there were (and are) a number of mission schools as well. Of the BIA schools, Faye and McNickel (1970) write:

> The schools were dedicated to the ultimate eradication of all traits of Indian culture. The location of schools at distances far removed from the reservations were selected with deliberate policy. The children were often no more than 5 or 6 years old when they arrived at these schools. The child could be taken then and moved far from the influence of the parents and tribe. Then the odds against [illegible] becoming a part of their tribal [illegible]

One of the most influential early educators was Captain Richard H. Pratt, Superintendent of the Carlisle Indian school in Carlisle, Pennsylvania from 1870 to 1904. Here is the bottom line to Pratt's educational philosophy, from a 1892 Denver speech . . .

> **. . . a great general has said that the only good Indian is a dead one, in that high sanction of his destruction has been an enormous factor in promoting Indian massacres. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in a race should be dead, kill the Indian in him and save the man . . .**

As the goal of Indian education was assimilation the BIA permitted no meaningful participation in the schools. It even insisted in 1902 on dismantling the Cherokee and Choctaw school system in Oklahoma even though it had compulsory education, a network of higher education institutions available, and a higher English language literacy rate then whites in the neighboring states of Arkansas and Texas. The graphic result of the destruction of the Cherokee's educational system was reported in a 1969 Senate report, *Indian Education: A National Tragedy, A National Challenge*. At that time, according to the report:

– median number of school years completed by adult Cherokee's was only 5.5 years;

– 40% of all Cherokees are functionally illiterate;

– the level of Cherokee education is well below the average for the state of Oklahoma, and below the average for rural and non-white in the state.

The Senate Committee blamed the failure in Cherokee education on alienation from the white man's school, chiefly because of the lack of participation in policy-making of these schools.

By the 1920's it was clear that the conditions in many of the boarding schools or the BIA boarding schools were a disgrace, a Dickensian nightmare. A study by the Brookings Institution in the 1920's, the Merriam Report, uncovered instances of children being fed maggot infested meat, filthy living conditions, whippings, head shavings and the use of a ball and chain to punish run-away children. The report called for greater participation by Indians in education, as well as in other areas. The Merriam Report helped the work of a New Deal reformer, John Collier, Commissioner of Indian Affairs under Franklin Roosevelt. Collier's goal was to give more authority to Indian tribes and people, to reverse the adverse effects of assimilation. In education that aim was served by the Johnson-O'Malley Act of 1935 (see

[illegible]

Unfortunately the gains for Indian self-determination of the 1930's and 40's were followed by one of those pendulum swings all too familiar in American politics. The name was changed – "termination" instead of "assimilation" – but the intent was the same, to separate Indians from their tribes and their relationship with the federal government. Charged with direction of the termination policy was Dillion Meyer, Eisenhower's Commissioner of Indian Affairs. Mr. Meyer had previously served as Director of the camps which held 100,000 Japanese-Americans behind barbed wire in World War II.

The idea behind termination was to give members of a tribe a big bundle of money in exchange for closing down their reservation. Termination contemplated ending of all federal services to a tribe and relocation of members to urban areas where there were more jobs. Actually, only a few tribes were terminated and in 1961 the Kennedy Administration repudiated the idea. The Johnson, Nixon, and Ford administrations have also each disclaimed termination. However, the prospect of termination still frightens many Indian people and plays an important role in determining tribal policy. It must be remembered that the tribe is the individual Indian's only protection against an often hostile white dominated culture and government.

An investigation led by Senator Robert Kennedy of the 1960's sparked renewed interest in Indian education. Some of the results were the Title IV Program and the 1975 Self-Determination Act, both of which play an important role in Indian participation today. Unfortunately, the new interest revealed that many of the old education practices remained shockingly the same as in the 1920's. For example, Senator Lee Metcalf (D. Mon.) reported that Indian children at the Chilocco boarding school in Chilocco, Oklahoma, were handcuffed for up to 18 hours with their arms turned back around a pillar. At times they were hung over a hanging pipe. Indian parents could not, of course, participate in policy-making of these schools. They were often 100 or more miles away.

The public schools which more than 2/3 of Indian children now attend lack the 24-hour authoritarianism of the boarding schools but retain their racism and cultural egocentricity. A blatant example comes from Tower, Minnesota, where Indian children were forced to ride in the back of their school buses until state investigators found out about the practice in 1974. However, in most schools the discrimination takes a more subtle, harder-to-shake form. For example, until the last few years Indian culture course work was unknown. Drop-out rates for Indians are still double the national average, discipline action is more often taken against Indian than non-Indians, and Indian teachers or administrators are rarities.

local systems even though Congress has charged it with enforcing relatively progressive educational policy. For example, investigations of four Minnesota schools near reservations for discriminating against Indians were initiated in 1970 by HEW's Office of Civil Rights (OCR). Six years later in July, 1976, Federal District Judge John Sirica had to order that these investigations be completed. It was not until November, 1976, that the OCR produced an investigative report on any of the schools. None of its representatives spoke with the local Indian parents, committees, or tribal advisory personnel. OCR's investigation was akin to investigation of a murder with no more than a brief glimpse at the body.

One Indian Community's Experience With Participation

I have chosen to use Cass Lake, Minnesota, as the focal point for a discussion of the uses and limitations of Indian parent participation. The chief reason in doing so is that I live in the community and have been active as a lawyer in an ongoing struggle in the district for recognition of Indian children as having unique educational needs. Another valid reason for choosing Cass Lake is that it is in many ways a representative reservation community. It lies within the boundaries of the Leech Lake Reservation in north central Minnesota. It has a population of about 1,300 with a school enrollment of about 950. The community and school alike are each about 50% Indian and 50% white. Generally, members of the two races don't mix socially. Per capita income of Indians is about two-thirds that of whites. Few Indian employees are seen in local business establishments. The main industries in Cass Lake are logging, tourism, and jobs related to the location of offices of the Leech Lake Reservation and the Minnesota Chippewa Tribe in the community.

Until 1974 there had been little parent participation in the Cass Lake school system by either Indians or non-Indians. The district was like many rural districts in that generally the Superintendent ran the system with the quiet permission of the school board. Several Indians had been on the board but without increasing the awareness of other board members, administrators or faculty of the unique needs of Indians. There were no Indian teachers or Indian staff with the exception of the school nurse. In the 1960's, election of school board members changed from a district or a ward style system to at-large elections. The effect was to essentially prevent any but the most acculturized Indian from being elected.

The school's operating premise was that all children in the district ignored the existence of the Indian population in the community and nation. The only mention of Indians, recalls one 1968 graduate, was in sixth-grade Minnesota history where students learned the savage Indians used to trade with French "explorers." After that, she recalls, Indians apparently ceased to exist, at least in books. For many Indians the resulting education was a totally alienating one.

The consequences were as could be expected: high drop-out rates, poor grades, and discrimination in application of discipline. There was no organized Indian input into the school system, only occasional angry outbursts from dissatisfied parents or students. A Local Indian Education Committee had existed for several years prior to 1974, but it perceived its role as allocating money to individual parents for parental cost items such as tennis shoes, class rings, etc., and to rubber stamp school board decisions. A Home-School Coordinator was employed by the committee to administer the program and to serve as a conduit for Indian children and parents into the system. As an advocate, though, she was compromised by serving two constituencies each with differing views as to her job. Administrators saw her as the school's entrée to the Indian community while Indians viewed her as the Indian entrée to the school. Eventually she quit and the job description was rewritten to make the position more of a counseling one and less one of an advocate.

In 1973, as part of President Nixon's Self-Determination Policy the Minnesota Chippewa Tribe began contracting for the JOM (Johnson O'Malley Act) program in place of the State of Minnesota. The immediate result was that the Indian parents discovered they had aggressive, and sympathetic administrative assistance from the Tribe. Previously whenever there had been a conflict between school and committee, state officials had seemed to side with the school. The Tribe also proved a source of good ideas both in education theory and practice, as well as in organizational know-how.

The first step in organizing Indian input into the Cass Lake School system was to energize the Local Indian Education Committee (LIEC). It had existed for four years but its members had seen the committee's role primarily functioning to provide personal, parental cost items to children in the school. Most of the members, however, were concerned with what they perceived as unequal use of discipline. They thought Indian children were being punished more often and more severely than their white peers. (Later the committee found this to be true. According to the school superintendent over 75% of school disciplinary actions are taken against Indians.)

administration encouraged this perception by insisting on talking in terms of individuals instead of racial groupings. However, one concession on the part of the school encouraged the Indians — the administration agreed to do away with their 12 day absence rule. That rule was that if a child had 12 excused or unexcused absences or tardy days in a semester she or he was not given credit for that semester. Also as a result of the meetings school officials ceased their practice of automatically reporting absent children to juvenile authorities for truancy without first discussing the problem with the parents.

The next goal selected by the parents was the establishment of an alternative school for Indian children with special needs. It was selected as a goal for two reasons — an obvious need for something to cope with high drop-out rates and alienation encouraged by the school, and its attractiveness as a community organizing device. The idea for an alternative school had been discussed previously. A proposal requesting funding from a private foundation was made in 1973.

After months of research and discussion, in August, 1975, the JOM committee presented its proposal for an alternative program to the school board. The proposal called for a school within the school for about 30 children, both Indian and non-Indian, with a curriculum emphasizing basic skills instruction along with Native American arts and crafts and Ojibway language instruction. All learning was to be in a non-competitive setting.

A problem in program planning for the committee was the limited access to school records of both Indian and non-Indian children. Minnesota data privacy law forbids disclosure of individual data on children and the school officials delayed and then refused to compile summary data for the committee. Therefore the only hard data the committee could use were percentages of drop-outs and participation in extra-curricular activities. This lack of data was later remedied by means of a Needs Assessment and Evaluation done by an outside white consultant with impeccable academic credentials. School officials provided him summary data they earlier refused on the grounds he was "more responsible" than the "radical" parents.

At one time the committee discussed the possibility of making an all Indian school separate from the district. A number of such schools have been set up and most report remarkable successes. However, the consensus was that the district and the State of Minnesota should continue to be responsible for educating all children, both Indian and non-Indian. The board responded to the LIEC's proposal by setting up task forces on admission, curriculum, teachers, etc. to study the proposal as well as other programs already in operation. None of the task forces ever came condition that supplementary financing was available. Two weeks later without investigating funding, the board changed its mind. The next day approximately 100 Indian children walked out of the high school protesting the board's action. The walkout was set after second hour in order to get the news to both Indian children and parents. It also enabled camera men from the local TV station to be present.

Particularly because of the bad faith bargaining of the school board community, support was given to the walkout. Many conservative Indians, however, were originally dubious about the walkout until they had heard that one of the white teachers made an obscene gesture at Indian children as they walked out of the school. Unfortunately for the teacher his picture was taken as he raised his finger and the picture was circulated around the community.

Although the walkout lasted only three days, the committee established its own alternative school for all children (about 35) who wished to attend. It paid for it out of its own funds. In January, 1976, a conference with the State Commissioner of Education resulted in an agreement with the school that the alternative program would operate the rest of the year with state funds. The school was named Bug-O-Nay-Ge-Shig in honor of an early Chippewa chief.

Prior to that time, the committee kept the issue in public view by filing a massive complaint against the school with the State Department of Human Rights, and by "planting" several news stories with local and metropolitan newspapers. The complaint accused the school district of systematic discrimination against Indians. It stated that every level of school policy and activity was tainted with racism. Among the items noted:

1) the presence of only two Indian teachers among the 69 faculty members (both were hired for 1975-76 school year.)

2) the lack of involvement of Indian students in extra-curricular activities.

3) high drop-out rate of Indians when compared with non-Indians.

4) low grades of Indian children.

Use of state agencies and media were an integral part of strategies. A number of Indian parents were encouraged to make individual complaints to the State Department of Human Relations. Two parents also made complaints of teacher brutality to the county prosecutor's office. By making these complaints each parent felt he or she was striking a blow for equality. By doing so, they were also maintaining pressure on the school system by showing that the Indians [illegible] ess th porters in advance of expected newsworthy events. This had to be done to offset the typical bias of the public towards an institution.

Today the future of the alternative program is in doubt. The State Commissioner of Education claims that the school violates the Minnesota Desegregation Statute (M.S. 127.08) in part because only 5 per cent of the students are non-Indians and in part because its course content is taught from a Chippewa Indian perspective instead of that of the dominant culture. The issue will probably wind up in the courts. Ironically, the majority of school board members now favor the alternative program. Indian community support for the program is almost unanimous. Indian parents are seeing that by united action they can accomplish something for their children in the district. Even more importantly, certain Indian youth are being taught basic skills along with a fair chunk of their own culture in a non-competitive atmosphere. (Most Indian children in the district do not attend the alternative program. Only about 10 to 15 percent are in it.)

In addition to the alternative school, the LIEC had another feud with the school board. Under federal regulations the Johnson-O'Malley program must be planned by the local parent committee. The school district may act as the committee's fiscal agent but policy must be made by Indians. This federal regulation was written into the contracts for all programs administered by the Minnesota Chippewa Tribe, including Cass Lake, for the 1975-76 school year. The Cass Lake school board in the fall of 1975 refused to accept a contract delegating decision making to another body or relegating itself to that of a mere fiscal agent. This refusal, though not expected by the LIEC, worked to its advantage. With the JOM funds the committee was able to operate its own programs; one of which was the alternative school. In the fall of 1976 the school was not offered the opportunity of taking part in the JOM program. The program was conducted exclusively by the LIEC.

Encouraged by the quasi-success of the alternative program, JOM members turned their attention to the Title IV program. The program was administered totally by the local school with only annual meetings by the huge, 27 member committee. The monies were spent on a Home-School Coordinator and a number of teacher aides who helped both Indian and non-Indian children. There was virtually no Indian input into the program. The school administration was in complete charge of the program. Title IV was supplementing costs of the district, both Indian and non-Indian, in direct violation of law.

The first step was electing to the chairmanship of the committee an individual sympathetic to change. Once that was done, a request was [illegible] *A once* resulted in a threat of a fund cut-off unless changes were made. A new proposal was quickly submitted and accepted. It required a needs assessment of the Cass Lake school system and utilization of aides only for Indian children. The proposal also required a smaller committee. It was accepted in the Washington office and funding continued.

A spring election resulted in the selection of many JOM members to the Title IV committee. With that election there was one body which could plan and coordinate all specific Indian educational efforts for the district. The new unified committee redrew job descriptions and added a Program Coordinator for the first time. Her role was to oversee all Title IV activities and report to the LIEC and to the school board. In the fall of 1976 a complete proposal on all aspects of Indian education was submitted to the school board. The basics of the proposal were the following: a continuation of the alternative program; a massive review of curriculum and grading policies and student discipline; and further remedial help in basic skills. The school board has in response requested the LIEC to review the school curriculum and make definite recommendations for including more Indian material.

Progress has been made in Cass Lake. For the first time specific problems with Indian education have been diagnosed and are now being acted on. The alternative school with its potential impact on Indian culture still exists. In the past two years, the drop-out rate for Indians has been reduced substantially, partially because Indian youth are now getting community support. Also, as a result of agitation, three Indian teachers have been hired in the last two years. Previously there were none. Still the big problems remain. Indian children are disciplined more than non-Indians, they get lower grades, and the curriculum continues to be aimed at meeting the needs of the dominant white society. Because of these factors, Indian parents still see the school as an enemy, not a friend. As for the administration and school board they still perceive Indian problems as individual problems, not as ones common to an entire racial/cultural entity. The remark of the high school principal to a *Christian Science Monitor* reporter is revealing, "Aren't we all minorities in our own way?"

Anthropologists have discussed in considerable detail whether or not Chippewa Indians are really different from non-Indians. James (1954) found after studying Wisconsin Chippewa society that it was simply a "poverty-ridden subsystem that has already become part of the larger society." However, a team of anthropologists studying Minnesota Chippewa, including Cass Lake, headed by Paredes (1953) found that indeed Indian society differs significantly from white society. A member of [illegible] tive in attitude, less aggressively hostile, and show a lesser degree of involvement in social organizations that whites of the same economic status.

Without judging the merits of anthropologists' arguments, one view of the unique educational needs of Indians is presented by records of the students themselves. In Cass Lake, the LIEC has found:

- Only 20% of the Indian children who begin school, finish;
- More then 75% of disciplinary actions are against Indians;
- In one recent grading period, 50% of the Indian children received failing grades.

By their failures, Indian children have shown they have different educational needs. Unfortunately, school officials cannot understand that the needs of Indians are different, and that if Indian children are treated precisely the same as white children and fed the same curriculum, they are denied the chance for real educational opportunity. They become educational schizoids, brought up in one culture and institutionally instructed in the values of another.

Federal Programs for Indian Education

The four major Indian participation programs are Impact Aid, (20 U.S.C. 236 et. seq. See also U.S.C. 631 et. seq.) Johnson-O'Malley Act, (25 U.S.C. 452), Title IV of the Indian Education Act of 1972 (Part A of Title IV of the Education Amendment of 1972, 20 U.S.C. 241 aa), and Title I of the Elementary and Secondary Education Act (20 U.S.C. 241 a (1965). Each requires Indian parental participation and/or control over expenditures. Unfortunately, parental participation in these programs is often non-existent or a mere charade for the benefit of federal agencies.

The reason for required Indian participation is that experience and independent research have shown that most Indian educational problems result from an absence of Indian parental and community control. A 1969 Senate study, *Indian Education A National Tragedy, A National Challenge*, found the following:

1) dropout rates for Indians are twice the national average
2) more than 20% of Indian men have less than 5 years of schooling
3) 40,000 Navajo Indians, nearly a third of the entire tribe, are functional illiterates in English
4) only 18% of the students in federal Indian schools go to college (the national average is 32%).

Most experts, Indian and non-Indian, questioned by the subcommittee agreed that the reason for the abject conditions was the exclusion of

Indians from participation in, and influence over, the kind of education which their children receive. Most Indian children are taught by persons from a foreign culture with foreign values who in essence are speaking a foreign language. Curriculums, textbooks, and educational philosophies are aimed at developing values like competitiveness and materialism that are alien to Indian cultures.

Impact Aid or Public Law 874 is the largest single source of federal money for Indian education. (A second form of impact aid is PL-815. These monies are for construction only. To the author's knowledge it does not have a participation component.) PL 874 is designed to provide eligible districts on or near reservations with funds in lieu of local taxes. The money is non-categorical, intended to go into the general operating fund of school.

All expenditures under PL 874 are by regulation supposed to be planned, developed, and operated in consultation with the parents of Indian children. This is seldom done. For example, in Minnesota where in 1975 over 20 schools received PL 874 money only two districts had parent communities. School districts are also required to submit statements describing how PL 874 program information is disseminated to Indian parents. The information is seldom, if ever, disseminated. A frequent charge is, because reservation Indians do not pay state taxes they should not have a voice in program expenditures. Besides the legal absurdity of that argument (for example, one does not have to be a taxpayer to vote) is the fact that PL 874 usually results in a higher yield per child than taxes would in most reservations or near reservation school districts.

Since the federal government refuses to make school districts adhere to participatory requirements, Indian parents must demand participation in allocation of PL 874 funds. The appeal should be directly to the Commissioner of Education in HEW, who is charged with administering the program. Because PL 874 monies go into the basic operating fund of school districts, community participation in the program can be more productive than any other. A PL 874 committee can actually help direct all expenditures in a school system, not only those exclusively for Indian children. In Cass Lake, a PL 874 committee has never been formed, simply because parents are satisfied they have all they can handle at present.

The Johnson-O'Malley (JOM) program is the "grand-daddy" of today's Indian education programs. It was passed in 1935 as a means to entice local school systems into taking over some of the burden of educating Indians from boarding schools by supplementing their expenditures on Indians. Monies go only to schools with children from reservations. Originally, JOM funds were legally poured directly into school's [illegible] fund [illegible]

PL 874 should be used to provide funds in lieu of local taxes while JOM was to be used for special programs benefitting Indian children.

As JOM was originally meant to help take the load off BIA boarding schools, that agency was and still is charged with administering the program. The BIA used to do so by contracting with the states who in turn passed the money onto local districts. Usually, individual districts ignored the need for direct consultation with Indians. Instead they spent the money on items that could be construed as helping Indians but also defrayed general education expenses such as building construction, school bus purchases and teachers' salaries. Thus both the BIA and the states were guilty of grossly ignoring the requirement for expenditures on specific Indian needs.

Recognizing the states' and the BIA's failure to adequately administer the JOM program, Congress passed the Indian Self-Determination and Education Act of 1975, or PL 93-638 requiring among other things that the BIA contract with tribes instead of state agencies when requested by a tribe. Over 100 Indian tribes now administer JOM programs and in turn contract the programs to local education agencies. While schools still operate JOM programs in some areas, many JOM committees are now incorporated and administer their own programs. In any case, all JOM expenditures must be planned and approved by local Indian committees.

The result of the new policy is the beginning of a quiet revolution in Indian education. In Minnesota, the state with whom the author is most familiar, all the schools contracted with the Minnesota Chippewa Tribe have conducted need assessments of local communities. As a result each local parent committee has established its own set of priorities. The most common priorities are tutorial help in basic skills; drug abuse education; parental involvement in planning; and native cultural classes. Many districts now offer native language classes which only a few years ago were virtually unheard of. In some systems, JOM money is now used for programs outside of school such as summer school, home school counselors, after school tutors, and alternative school experiences.

But it is not just in educational services that Indians are benefitting. Indian parents sitting on the local committees are learning that they, too, can contribute to educational policy-making. School budgeting, curriculum planning and educational theory are understandable to them for the first time. Committee members are also being taught at first hand the racism of education institutions from school board on down as well as seeing the real mediocrity of many administrators.

In statutory form Title IV is the term commonly used for programs funded under the Indian Education Act of 1972. Title IV was actually the legislative result of the 1968 and 1969 Senate Study referred to [illegible] of HEW LikeJohnson

O'Malley, Title IV monies are to be used for the specific needs of Indians. They cannot be simply put into the general operating fund of a district.

The participatory aspect of Title IV differs from JOM. Under it the Indian committee and the local school board share responsibility for programs. Under JOM on the other hand, it is possible to run the program completely outside the auspices of the school. Title IV programs though they are for Indian children only, must be administered by the local school district. They cannot be administered by an independent Indian committee. However, Title IV payments cannot be made without the full participation of a Title IV committee. It should be noted that where a majority of a school board is Indian, Indian parent committees are not required under JOM and Title IV. This is for a good reason. To do otherwise would be to encourage inter-Indian bickering and undercut the validity of the electoral process. However, Indian controlled school boards are not common. The 1969 Senate Subcommittee report states that 2/3 of all Indian children in public schools attend predominantly non-Indian schools.

The hope that Congress had in approving Title IV was that it would force local school boards to work with an Indian committee in order to put together a proposal for HEW and then that the two organizations would operate it together. The goal was twofold: to have school boards be more sensitive to unique Indian needs while making local Indians take on responsibility for programs. Ideally the idea should work and it does, except when as has happened in a number of cases, a district refuses to take on a Title IV program because "the Indian children do not need it," in the opinion of the school board. Or as some boards feel, one racial group should not receive extra help if others do not receive it.

A Title IV committee can be comprised of parents, students and teachers. There is no required size so a favorite tactic of administrators is to emasculate the programs by persuading Indians to make their committees so large so as to be unworkable. Benefits for Indians under Title IV are broader than under JOM. JOM requires that children must be of 1/4 Indian ancestry while a child may receive Title IV benefits if she or he is two generations removed from a tribally enrolled Indian. Only parents of Indian children, teachers and students where there is secondary school involved can be a Title IV committee. School administration board members may sit only in an advisory capacity.

Education committees are chosen in a variety of fashions; neither the law nor its regulations mandate any specific procedure. Some committees are appointed by tribal leadership or by the local Superintendent or school board. Others choose themselves or [illegible] committed leadership as well as closest ties to the community.

For many Indians, particularly in urban areas, Title IV can be the only vehicle for Indian participation. JOM and PL 874 funds are reserved for reservation Indians and often Title I programs are controlled by other minority groups or by poor whites. Title I of the Elementary and Secondary Education Act is for all poor and culturally deprived children, not just Indians. However, because of their economic poverty many Indian children do qualify.

The philosophy of Title I is that poor children need more services and consequently more dollars, to reach the same educational level as middle class children. For Indians that means that Title I funds should be spent on supplemental programs designed to meet their own special and unique needs. However, even in predominantly Indian schools few Title I programs do try to provide for the unique needs of Indian children. In fact, a 1972 study by NAACP, *An Even Chance* (1972) revealed that school districts having more than one school usually spent their Title I monies not where the poorest children were but instead on where the fewest Indian children were.

Title I regulations require a parent advisory council to monitor and evaluate Title I programs and suggest ways of reshaping those programs so that they can better help poor children. Parental participation in all Title I programs for non-Indians, as well as Indians, is too often minimal. For Indians, the participation problem is accentuated by the fact that Indian education activists already may have two or possibly three parent committees requiring their attendance.

A Modest Legal Theory

As a discussion of recent Indian history is incomplete without looking at court decisions so is a discussion of the future of Indian education impossible without mulling over theories for legal change.

Indian people learned long ago that what the federal government gives, it also takes away, abruptly and without regret. The new structure for participation in education presented in this article is subject to the same caprice. When the four federal programs are stopped, as is possible in any Congress, guarantees must be made that the gains now possible are not washed away by states and local districts.

In the opinion of the author, the only long term assurance is an articulation by federal courts of a right to a bi-cultural, not just bi-lingual, education for Indian children. A theory on this is presented below. For a more detailed work, see Folsom (1975).

American life. The classical civil rights equal protection remedy of integration therefore does not necessarily apply to Indians. The educational situation of Indian people is in certain ways distinct from that of black peole in *Brown* v. *Board of Education* and all its progeny. Historically, integration for Indians has in itself proved to be harmful and discriminatory. Therefore with Indians a broader conception of equal protection is necessary. We must realize that to avoid the stigma of inferiority, or in the words of one court, "the badge and indicia of slavery," that the Constitution entitles Indian children to an education tailored to their own unique cultural and developmental needs.

Discrimination against Indian children is unique. It forces children to discard values taught by the parents and community and adopt alien ones. This unique form of racial discrimination causes the same sense of inferiority, the same lack of motivation, and similar social results as were reported in *Brown* and other school segregation cases. The remedy, however, is not a Jim Crow system of segregation for Indians. The answer is to respect and recognize cultural difference by providing bi-cultural curriculum in schools where there are a number of Indian students. The Supreme Court has already ruled in *Lau* v. *Nichols* that bi-lingual programs are mandated by Title VI of the 1964 Civil Rights Act. The *Lau* decision must be extended to include children of distinctly different cultures as well as language.

Two federal district court decisions seem to stand for that proposition, at least where Mexican-American students are concerned. In *United States* v. *Texas* (1971, 1972), the court ruled Mexican-American students in the San Felipe-Del Rio school district were entitled to the same relief given black children in school desegregation decisions: that is, to eliminate discrimination root and branch. In the decision the court ordered busing but also required a bi-cultural, bi-lingual approach to education in the district.

The second decision is *Serna* v. *Portales* (351 F. Supp. 1279, aff'd 999 F. 1147 10th Cir.). Its chief significance is the ruling that there is a *negative impact,* not just a neutral one, in an educational atmosphere which fails to reflect needs of the Spanish speaking minority. However, the impact of *Serna* seems to be modified when juxtaposed to another district court decision, *Otero* v. *Mesa County* (1975). There the Colorado court ruled that although progressive educational theory may call for bi-cultural education, the Constitution does not. The court also referred to the concurring opinion in *Lau* by Justice Blackmun that there must be a class of students with limited English speaking ability before *Lau* type relief. The impact of these cases seems to be that, given enough Indian children, or children of any cultural minority, and with a showing that they suffer from inadequate education, some sort of bi-cultural education is required.

If we consider uniquely Indian law it appears that the argument for bi-cultural relief is stronger. First, we have the recent case of *Mancari v. Morton* (1974) in which the U.S. Supreme Court held that Indian employment preference in the BIA did not violate Title VII in the 1964 Civil Rights Act and the Constitution. In *Mancari* the Court ruled the objective of hiring Indian employees met constitutional muster because it was aimed, in part, at offsetting discrimination in employment elsewhere. An Indian bi-cultural program likewise would be approved in that it would tend to offset other disadvantages Indian children might have in public schools.

Secondly, we have a whole raft of Indian educational legislation, the existence of which seems to indicate a congressional recognition that Indians have unique needs in education. Literally mountains of research and congressional testimony would support the fact that Indian-oriented course work does help Indian education. Third, there is the canon of judicial construction that cases involving Indians should be decided in the light most favorable to the Indian people. If all of the factors are equal, the federal courts will rule in favor of Indian wishes.

Prospects for the Future

The future success of Indian participation in education is at present directly related to federal financing. If there is a drastic cut in Indian education expenditures, influence will drop precipitously. Most school boards having Indians in their district are usually similar to Cass Lake, Minnesota. They cannot understand why Indian children should receive anything for their unique needs. In fact, in the past, districts have taken "Indian" money and used it for everybody.

However, if federal funding grows or even remains the same for at least the next decade, it is probable that most local Indian parent committees will continue to insist on more native arts and crafts, and language instruction as well as a greater insight into an Indian perspective on American children, fewer drop-out rates, and more emphasis placed on students going on to higher education. In short, the new programs will give Indian children a better preparation for a successful adult life.

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Rx For School Governance

Bill Burges
Institute for Responsive Education,
Boston, Mass.

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The major problem facing American education is the lack of citizen participation in school governance, which is symptomatic of the general low (but increasing) rate of active citizenship that permeates American politics. In education – where citizen participation can make the difference in school responsiveness to community needs – democratic decision making has been discouraged by the three major groups at the core of the system. School administrators, teacher organizations, and school boards are not willing to share the controls with parents and other citizens despite complaints about the quality of the educational product. The following article documents and explains the problems caused by the closed system of educational decision making, and proposes several steps that might lead to change.

From Manhattan Island to Main Street USA, the public schools are under attack. Much of the most thoughtful criticism is directed at the way schools are governed. What too often has been hailed as an outstanding example of democracy at work is now seen as an essentially closed system. Observers such as Katz, Tyack, Rogers, and Davies characterize the system as both oligarchical and unresponsive. They are right; school decision making is dominated by administrators, school boards, and teacher unions who have locked the citizen out of the decision making process.

The problem is symptomatic of the low – albeit increasing – levels of citizen and consumer input that threaten the fibre of our democracy. Unless constituents are viewed by policy makers as equal partners in the democratic, representative scheme of government, decision making is too far removed from the people it most affects. Effective representative government erodes as leaders at the local, state, and national levels put distance between themselves and the mythical man in the street. Accountability becomes a bogus concept. Decisions are made by the "best and the brightest," people who somehow turn out to be social and economic

Bug-O-Nay-Ge-Shig School
Self Study

I. SOCIAL SETTING

Background

The alternative program began on November 10, 1975 immediately after the walkout of Indian students from Cass Lake High School. During the first weeks, the program operated from the Teen Center and can be described only as chaotic during those initial days. The 70 to 80 students involved in the program at the onset, spent the major part of each school day playing pool, foosball, cards, and the like. The program began with two teachers. Teachers attempted to organize students into small groups of 6 to 8 and work with one or two small groups at a time.

The program began with no curriculum materials excepting a few textbooks students brought from High School. Very few students showed any serious intentions of attending to school work or other school activities. A small nucleus of students, however, were determined to have the program succeed. Efforts of these students, along with support and encouragement from the Local Indian Education Committee and some parents, enabled a program to emerge from initially painful beginnings.

At the close of the first school year, a viable, student centered program was operating at Bug-O-Nay-Ge-Shig. We believe this program has grown in response to a special educational need for an alternative educational program. Furthermore, we anticipate this need exists into the future.

Community

Bug-O-Nay-Ge-Shig School serves approximately 50 Indian students on the Leech Lake Reservation. Because we are an all-Indian program, most of our courses incorporate Indian culture and concerns as much as possible. This has generally not occured in the local public schools. Further, many of our activities serve to promote cultural awareness, e. g. pow wows, trips to other reservations, trips to museums, etc.

In the past, drop-out rates among Indian students in the public schools has been staggering - up to 80%. In the last few years the situation has improved with the help of an active Title 4 Indian Education Program in the public schools. In the past, Indian parents often felt left out of their children's education. They had almost no input or control over the local public school system. Even though the population of Cass Lake is divided approximately in half between Whites and Indians, the Whites had always maintained control of the school system because they were generally at the top of the socio-economic system.

Bug-O-Nay-Ge-Shig School was formed to alleviate these problems. We were part of the local public school district from January 17th until June, 1976 after MN. Commissioner of Education, Howard Casmey came to Cass Lake and urged the School Board to recognize us. During that time we were more tolerated than supported by the School Board and the White community. From the beginning, however, we have received the support of the Local Indian Education Committee, the Leech Lake Reservation Business Committee, the Local Indian Council, and numerous agencies and individuals in the Indian community. Without them, we would not have lasted long.

Bug-O-Nay-Ge-Shig School is now administered by the Leech Lake Reservation Business Committee (R.B.C.). We have a Parent Council, elected by the parents, which serves as an advisory committee to the R.B.C. Students are also represented on this Council.

Community involvement is also encouraged by school-sponsored dinners, activities, ceremonies, feasts, etc. to which the public is invited.

Student Body

All of the students at our school are Chippewa Indians (also known as Ojibwe or Anishinabe). Many of the students were having problems (academic or behaviorial) at the public school in one or more classes. Some have low self esteem. Some have alcohol and drug-related problems. Many are from low-income families.

In order to meet some of these special needs, we will have 2 half-time counselors and a Home/School Coordinator this school year.

Student Behavior

Because we found that external controls on student behavior were ineffective, a student regulated system was begun in February, 1975. Very briefly, this system consists of a leadership council, family groups, and a point system.

The leadership council, made up of 10 elected students, is responsible for making all school rules and policies. Each family group consists of about 10 students and one or two staff members who meet daily for group activities and to discuss problems facing the group or individual members. The family group is responsible for enforcing the rules made by the Council. Finally, a point system was devised so students can earn up to 10 points per class depending on participation. Students who earn at least 80% of the total possible points can participate in a special activity on Friday afternoons.

Student-Staff Relationship

Our staff members honestly care for and are interested in each student. They can work with, encourage and build solid relationships with the students. This is in part because of the low student-staff ratio. It is also a result of the sensitivity by the staff to the unique needs of the children in this program. This sensitivity includes an awareness of Anishinabe culture and the local Indian community.

Anishinabe Identity

We emphasize promotion of a strong Anishinabe identity. This has evolved naturally through the involvement of the local Indian community in establishing and maintaining the school. It is furthered by the Anishinabe staff members, who while serving in positions of importance, also are adult models for the students. Therefore it is natural that students think of the program as "the Indian School" - their school.

II. PURPOSES & OBJECTIVES

Our objectives were not put into written form until Spring, 1977, after we had been operating for more than a year. At that point, it was quite easy for us to write them down because they were the same objectives that the parents, students, and staff had talked about and worked for since the school began.

Point of Being - Bug-O-Nay-Ge-Shig School exists to create a non-threatening atmosphere conducive to learning which fosters student achievement and pride in a supportive environment.

Objectives - To provide reading, writing, math and other basic life skills. To provide a curriculum with special emphases on Anishinabe values and culture. To provide for the accurate teaching of Ojibwe History, and the oral traditions. To provide classes in Ojibwe language and culture so as to increase our students cultural awareness. To provide students with the tools and knowledge needed to function in a bi-cultural setting. To increase attendance and decrease drop-out rates among Indian students. To make education an enjoyable experience. To encourage higher education among Indian students. To provide students with personal attention and instruction. To encourage students to play an active role in decision-making. To promote self-reliance and responsibility for one's actions in our students. To increase decision-making abilities. To promote self-respect and respect for others. To promote a positive self-image. To correct behavorial problems. To promote freedom from chemical dependency. To promote a positive self-image based on Indian pride and a positive Indian identity.

III. EDUCATIONAL PROGRAM

As the curriculum is developed, we are stressing basic skills with a special emphases on Anishinabe culture. In the areas of English, Science, Social Studies and Art and SLHP classes in particular, materials are blended so students will acquire basic skills along with a thorough knowledge of their own heritage. Each will reinforce the other.

Through trial and error, we have found that an "open" or "free" school atmosphere does not work well for our students at this time. Therefore we have developed a structured program which meets State guidelines while also allowing for some flexibility.

See course descriptions and Spring Schedule, 1977 on the following pages.

Students generally are divided by grade level, although grades are combined for some classes.

Students are evaluated every 9 weeks. Report cards contain both letter grades and written evaluations.

Teachers and courses are evaluated by students at the end of each school year.

Student Activities

We have special student activities frequently so as to encourage students to attend school regularly. One evening each week there is an activity (usually a movie) for those who have earned enough points during classes that week. Also, on Friday afternoons, we have an activity for all students and staff. This may be a field trip, a softball, volleyball, or basketball game, bowling, skiing, etc.

IV. In-School Support

Staff and Administration

I. The director at Bug-O-Nay-Ge-Shig is classified as a half-time teacher, half-time administrator. As administrator he is responsible for writing the schools funding proposals, keeping records of all expenditures, meeting with the parent committee to get their approval for expenditures, carrying the parent committee's recommendations to the appropriate agents of the Reservation Business Committee, negotiating contracts for buildings, buses and special services and posting public notice of school functions, job openings, etc;.
Within the school, he calls and conducts staff meetings, leads assemblies, counsels children and delegates responsibility for minor problems that arise from day to day.

II. Each member of the teaching staff must function autonomously. The selecting and securing of materials, classroom organization and setting of requirements is the responsibility of each individual teacher. The school places a strong emphasis on Indian Culture, materials, values, authors, etc., but the extent of the inclusion of these in the curriculum varies with the teacher and the subject taught.
We have frequent staff meetings where teacher aides and counselors consult with each other on how best to work with individual students, but this process seldom produces an ironclad rule which all staff must follow.

Instructional Media Services

Our school has the beginnings of a small library. It has a 16 mm movie projector, 2 film strip projectors, a duplicator, a record player and 2 cassette recorders.

We have bought some film strip programs. Other film strips and movies we borrow from the State of Minnesota, the Minnesota Chippewa Tribe, the Cass Lake and Bemidji School Districts and Bemidji State University.
The concept of a media center for the school will not be realistic until we are larger or in a more permanent location or both.

Health Services

We have a certified health teacher.
We have several staff trained in first-aid.
We have two (2) persons trained in chemical-dependency counseling.
We transport students to the hospital in Cass Lake for treatment of sudden illness or trauma.

Transportation

We have one (1) school bus (with part-time driver) and a van.

Physical Facilities

We rent a classroom building and a gymnasium from the University.

V. School Improvement

We face the following problems and will try to deal with them this year in order to improve our school:

Finding a permanent location for the school and obtaining funds for construction.

Dealing with drug and alcohol abuse.

Maintaining a close group feeling in spite of a growing enrollment.

Increasing parental involvement in the schools operation.

Providing safe transportation to and from school.

Increasing student involvement in decision-making.

Developing a fair, consistent method of discipline using peer group pressure.

Maintaining a staff that works together so that students are treated consistently.

Providing for those students with special needs.

Other activities include the Drum Group and Sports (basketball and softball - boys and girls teams).

Leadership Council and Family Groups

Our student government body is called the Leadership Council. The Leadership Council and Family Groups are explained by students in our yearbook. (Copies enclosed.)

School Climate

Problems are discussed thoroughly - weighing both pros and cons and any decision made has always got to be for the betterment of the school for the students.

Any kind of decision making is done with all staff, parent committee and administrators, keeping in mind at all times that any decision made should benefit the students in school. Students are often involved also.

Factors that affect our school climate are usually discussed during group sessions and also during an assembly of the whole school.

There is definitely a feeling of closeness for all who work and come to the school most likely due to the fact that all staff are encouraged to spend a lot of time with students, in class as well as out.

The School Staff

STATEMENT OF ROGER T. AITKEN, EXECUTIVE DIRECTOR, LEECH LAKE RESERVATION BUSINESS COMMITTEE

Mr. AITKEN. My name is Roger Aitken. Since the testimony will be made part of the record, I will depart from that and briefly make a couple of comments just to highlight the testimony.

There is not anything that I would be able to say that has not been said already about Indian education here today, regarding local control, and involvement of tribal governments.

Our testimony is basically three components. It tells our story about how Bug-O-Ne-Ge-Shig School on the Indian reservation was created. The gory details are all documented, for the record, for anybody who would want to follow up on any of the accusations.

We would welcome the opportunity to have you contact us on anything that is contained in here.

There is a story in the testimony, an article written by one of the activist lawyers we had on the reservation, Mr. Ken Peterson, at the time of the creation of the Bug-O-Ne-Ge-Shig School. entitled "Indian in Education: One Community's Experience," that being the Catholic school district of the Chief Bub-O-Ne-Ge-Shig alternative school. There is a brief synopsis of the Chief Bug-O-Ne-Ge-Shig.

I have with me here Michael Schmid, director of the Chief Bug-O-Ne-Ge-Shig Alternative School, and will be able to give you an update on the current funding status, the makeup of the school itself, the day-to-day operations, the policies, and so on.

The primary thrust of our testimony and the information we present to you today is to strongly emphasize three major goals:

(1) It is recognized that Indian alternative schools are not in violation of civil right statutes;

(2) The local parent and tribal control of various educational programs must be instituted and guaranteed by the Federal Government; and

(3) An attempt must be made by the Federal Government to assist tribes and Indian organizations in obtaining cooperation from State agencies and local school districts in implementation of alternative school systems as American Indians see fit.

I don't want to take a great deal of time. As I have said, the details as to the creaton of Chief Bug-O-Ne-Ge-Shig alternative school came about simply because the Catholic school students were turned off by the school system. They walked out of school.

The Indian parents, some educational consultants, and tribal staff gathered and created what we call an alternative educational program for the Indian students on the reservation. Today, this is what we have; an alternative school system, and I would like to have Mr. Mike Schmid allude a little bit to the structure of that school.

STATEMENT OF MICHAEL SCHMID, DIRECTOR, CHIEF BUG-O-NE-GE-SHIG ALTERNATIVE SCHOOL

Mr. SCHMID. I will not read through the testimony, but I would just refer you to the last few pages because that is what tells what the school is about. I want to go through the main points that are in that, and just briefly explain what the school is about. I also have a few points that I want to add.

Currently, we have 73 students enrolled at our school. They come primarily for two reasons. Most of them come because they were not succeeding at the public school. Most of them showed a pattern of failure in the public schools, and they had low grades and a number of problems in the regular public school.

There is another reason that some, who were not having problems in the public schools, are enrolled was because the parents wanted their child to get an education that was Indian oriented, and included Indian history and Indian language.

I want to summarize some of the unique features of our school as they have developed over the last couple of years. We have tried to encourage positive Indian identity in all of our classes. We have also encouraged a positive Indian identity by having Indian staff members that are in responsible positions. I say, responsible, because I know that in a lot of cases Indian people are hired to work in schools but they are given jobs that really do not have any responsibility to them.

At our school, we have seven certified teachers, and four of them are Indian people. We have seven people on our supportive staff, and six of them are Indian, and they provide adult models for our Indian students.

Another unique feature is that we have student input. We depend on our students for a lot of help that we get in running our school. As we set up, they had a lot of problems at the school, and they had a lot of thoughts on how things should be different. So we are using that.

We have set up a student regulated system, and the students at our school make the rules that are going to govern our school, which all the students have to follow, so that the teachers do not have to act as a policeman.

The students, through peer group pressure, and what we call the leadership council, do this much more effectively than we, as teachers, could do it.

We have a fairly structured program with regular class schedules. When we first started, we had more of an open school situation. We found that this did not work with the students that we had at our school. They needed more direction than that. Moreover, classes incorporate Indian culture, and Indian history wherever possible, the exceptions would be like mathematics, which is pretty tough to mix the two. But aside from that, just about every other class, whether it is literature, science, ecology, social studies, we go at it with the idea to incorporate as much of the Indian culture as possible.

In social studies, for instance, there are students—most of our students, really, don't have any knowledge about reservation government, tribal government. In the public schools, they are not picking up anyhing about that. There isn't anything that they have learned. So we figure that this is the first thing that they should know about, because that is the closest to home, and from there they should go on to county, State, and Federal Government.

Both the students and the staff at our school have come to recognize that we have a serious alcoholism and chemical dependency problem. I think the difference in our school is that in a lot of schools, even though the problem exists, it is ignored, it is swept under the rug because it is easier to ignore it. At our school we try to be very open about it and aboveboard in dealing with it because we recognize that it is a serious problem, and it has to be dealt with. Most of the students have backed up in that.

I think that probably the most positive aspect of our school, and the reason that it is appealing to a lot of Indian kids that we have out there, is that we work very hard to maintain a close group feeling, really a family feeling among the students and the staff through group meetings, school activities, assemblies, and something that we call family groups, where we get together every day in groups.

The reason that our staff can be effective, and work successfully with the students that we have is because the students know that the staff cares about them, and want to see them succeed. That makes a big difference. That makes all the difference in the world.

I have a little bit of data which I think supports, or shows that we have had some success in the program in the last 2 years. This is our third year of operation.

In the first year, we started in the second quarter of the school year. So during that year, we could compare our first quarter of attendance at our school with the first quarter of attendance at the public schools. Overall there was an average increase of 12 days per quarter, 12 days for every 9-week period for each sudent, on the average.

We administered the Peabody Individual Achievement Test, and the achievement test was administered last year in the fall of 1976, and again in the spring of 1977, and the scores indicated a month-from-month average gain in grade level. I think that it shows that we are being successful, even though our attendance rate was at 76 percent, and that is not extremely high.

Mr. QUIE. What is the reason for the attendance being 76 percent?

Mr. SCHMID. One of the reasons is that about a third of our junior and senior high school students are kids that had already dropped out of school, for whatever reason, and are coming back. Some of them are pretty sporadic in their attendance.

This year, our enrollment is up to 73 and that is double what it was at the beginning of last year. So we have been expanding really fast. Also this year a third of our high school students, 20 out of 60, are dropouts that returned to school.

This is all I have to say. I will be happy to answer any questions.

Mr. QUIE. Mr. Buckanaga, Pine Point School.

[The prepared statement of Mr. Buckanaga follows:]

Mr. Chairman, my name is Jerry Buckanaga. Director of the Pine Point Experimental School located on the White Earth Reservation in Minnesota. I am also the elected Secretary-Treasurer of the White Earth Tribal Council and a member of the Minnesota Chippewa Tribal Executive Committee.

The Pine Point Experimental School was established in 1970. Prior to that Pine Point was a common elementary school operating in a traditional style of education.

The causes of establishing an Experimental School concept have been well documented and is described in detail in the accompanying reports.

It has been well documented that a system as Pine Point be established and allowed to develop over the years.

Pine Point has functioned as an experiment from 1970 to the present time (1977). Initially, Pine Point was an attendance unit of a larger school district (Park Rapids). The funds and administrative decisions were made - - not at Pine Point - - but at the larger district offices, by the superintendent and the district school board. Although, an advisory committee made up of Indian parents, did exist it had no decision making authority. For all practical purposes local control did not exist; All decisions were made at the Park Rapids offices.

The program proved effective, only because of the staff's and community's committment to ses the alternative school develop.

THROUGHOUT THE 3 YEARS, A CONTINUED SERIES OF ARGUMENTS WERE CARRIED OUT, PRIMARILY BECAUSE OF PARK RAPIDS' REFUSAL TO LET ANY DECISIONS BE MADE AT THE PINE POINT LEVEL.

IN 1973 THESE ISSUES CAME TO A HEAD. PINE POINT OFFICIALS TOOK THEIR CASE TO THE STATE BOARD OF EDUCATION, COMMISSIONER AND LEGISLATURE. THIS RESULTED IN THE ESTABLISHMENT (BY LEGISLATIVE ACTION) OF THE SECOND PHASE OF PINE POINT.

IN JULY 1973, PINE POINT EXPERIMENTAL SCHOOL WAS RETURNED, THE AUTONOMY AND LOCAL DECISION MAKING AUTHORITY. A BOARD OF EDUCATION WAS ELECTED AND BY THE FALL, PINE POINT WAS AN INDEPENTLY RUN PROGRAM.

THE ORIGINAL LEGISLATION CALLED FOR A 4 YEAR OPERATION, ENDING IN JUNE OF 1977. THE PINE POINT OFFICIALS RETURNED TO THE LEGISLATURE REQUESTING AND EXTENSION OF 4 YEARS. THE EXTENSION WAS GRANTED AND PINE POINT IS AGAIN OPERATING AS AN INDEPENDENT PROGRAM.

MY RESEARCH HAS SHOWN CONCLUSIVE EVIDENCE THAT THE PINE POINT PROGRAM HAS BEEN HIGHLY SUCCESSFUL. PINE POINT STUDENTS HAVE SHOWN A MUCH HIGHER ACHIEVEMENT ORIENTATION THAN EITHER THEIR WHITE SURVIVAL CULTURE NEIGHBORS OR PUBLIC SCHOOL INDIAN COUNTERPARTS.

THE SCHOOL IS THE SOUL OF THE COMMUNITY IT SERVES. WITH THE SCHOOL AS A BASE, THE COMMUNITY HAS BEGUN TO MAKE A BETTER LIFE FOR IT'S FUTURE, THE CHILDREN. THE ENTIRE COMMUNITY FEELS AN INTEREST IN AND TAKES RESPONSIBILITY FOR THE EDUCATION OF ITS YOUNG PEOPLE, UNLIKE ANY POVERTY-STRICKEN COMMUNITY IN THE STATE. THE PARENTS, FRIENDS AND NEIGHBORS OF THE STUDENTS HAVE BEGUN ACTIVELY PARTICIPATING IN THE EDUCATION PROCESS. PARENTS ACT AS TEACHER'S AIDES; GRANDPARENTS TEACH HISTORY AND LANGUAGE.

THE WARMTH, THE EXCITEMENT ABOUT LEARNING, SO SORELY LACKING IN OTHER PUBLIC SCHOOLS BELIES A NEW HOPE THAT RADIATES FROM A COMMUNITY

ONCE VIEWED AS HOPELESS. THIS IS THE IMPORTANCE OF PINE POINT - IT IS BUILDING A FUTURE FOR A PEOPLE WHO HAD NONE.

THE UNPARALLED SUCCESS OF THIS PROGRAM GIVES HOPE NOT ONLY TO PINE POINT, BUT HUNDREDS OF SIMILIAR COMMUNITIES ACROSS THE NATION WHICH CAN LOOK TO THE PINE POINT SCHOOL AS A MODEL OF HOW TRULY COMMUNITY BASED EDUCATION CAN TRANSFORM POWERLESS COMMUNITIES.

OVER THE 4 YEARS OF OPERATION (1973-77) PINE POINT HAS EXPERIENCED A NUMBER OF PROBLEMS. DURING THE FIRST YEAR, A GROUP OF PEOPLE WHO HAD NO PRIOR EXPERIENCE IN MANAGEMENT OF SCHOOLS, TOOK ON THIS CHALLENGE HEAD ON AND LEARNED THE BASIC MECHANICS OF RUNNING SCHOOLS.

THE PROBLEMS OF MANAGEMENT, STAFFING AND EQUIPPING THE PROGRAM, HAVE ALL BEEN TENDED TO ONE TIME OR ANOTHER. THEY HAVE BEEN MATTERS OF GAINING EXPERIENCE AND ALLOWING FOR TIME AND GROWTH.

THE CONSISTENT PROBLEM HAS BEEN FUNDING. IN THE BEGINNING PHASE (1970-73) THE FUNDS WERE ADEQUATE BUT PROBLEMS OCCURED BECAUSE OF OUR LACK OF FISCAL CONTROL.

THIS CHANGED IN THE SECOND PHASE (1973-77). THE TRANSITION OF CHANGING FROM THE PARK RAPIDS'DISTRICT TO PINE POINT'S NEWLY INDEPENDENT DISTRICT WAS DIFFICULT, TIME CONSUMING AND CONFUSING. IT WAS MADE EVEN MORE DIFFICULT BECAUSE OF THE LACK OF CO-OPERATION FROM THE PARK RAPIDS OFFICIALS. IT TOOK INTERVENTION BY THE COMMISSIONER OF EDUCATION IN MINNESOTA BEFORE PINE POINT COULD ESTABLISH ITS' OWN MANAGEMENT SYSTEM.

ANOTHER FINANCIAL PROBLEM WAS THE LACK OF SPECIFIC FUNDS FOR THE EXPERIMENTAL ALTERNATIVES. NO SPECIAL FUNDING WAS AVAILABLE FROM THE STATE OF MINNESOTA NOR FROM ANY PRIVATE SOURCES. THE ONLY STATE FUNDS' RECEIVED WERE THE STATE FOUNDATION AIDE FUNDS (SINCE PINE POINT IS a public school).

Federal funds were available from Title I, PL-874 - impact aid Title IV, Indian Education Act and Johnson O'Malley.

Only Johnson O'Malley funds were obtained to carry out innovative educational programs. The theory of Johnson O'Malley, as I understand it, was to establish special or exemplorary programs. Under this definition Pine Point Experimental School can be considered a totally new special program. Because of the alternatives which make up Pine Point, no part of it can be considered as a traditional system.

In 1971-72, Johnson O'Malley was at the peak of Pine Point funding. In 1972-73, the JOM allocation declined. Each year since, Johnson O'Malley has been decreased at Pine Point.

The other sources of funding has remained the same with the exception of Title IV which has been eliminated. Proposals for special programs have been rejected from Title IV and Title III, state funds.

In evaluating the funding for Pine Point it is clear to me that we are under funded, and penalized because of limited resources. JOM took care of most of our special needs but that is being cut back with each fiscal year.

Because Johnson O'Malley is being cut back, further development of the special features of Pine Point are negated.

As an educator, tribal council leader and concerned parent I am appalled over the direction JOM funding has taken. As far back as 1969, the alrming call for changing Indian education was made throughout the country. Experts cited statistics, suicides, drop out rates, poor

ACHIEVEMENT AS REASONS FOR NATIONAL CONCERN.

I TOOK THAT CALL MORE SERIOUSLY THAN MOST. I FOUNDED PINE POINT EXPERIMENTAL SCHOOL. I TRULY BELIEVED INDIAN PEOPLE COULD CHANGE THE EDUCATION FOR OUR OWN CHILDREN.

PINE POINT HAS MET EVERY CHALLENGE AND IS A QUALIFIED SUCCESS. WE HAVE GROWN INTO AN EXCITING, NEW, SOCIAL CHANGE AGENT AND DIRECT EVIDENCE THAT A COMMUNITY CAN CHANGE ITS FUTURE.

THE DIRECTION OF JOHNSON O'MALLEY, UNDER NEW GUIDELINES WILL DAMAGE PINE POINT CONSIDERABLY. IT AL HAS, DUE TO THE FUNDING CUT BACK, BUT FURTHER CUTBACKS WILL PARALYZE US.

WE CANNOT AFFORD THIS. THERE MUST BE A DIFFERENT SYSTEM. WE MUST BE ALLOWED TO PARTICIPATE IN DEVELOPING A NEW FORMULA, WHICH CAN MEET OUR NEEDS. WE CANNOT FUNCTION WITHOUT USING JOM FOR BASIC SUPPORT AND WITHOUT A SIZEABLE AMOUNT FOR SUPPLEMENTAL PROGRAMS.

WE MIGHT AS WELL PREPARE TO SHUT OUR DOORS IF JOHNSON O'MALLEY CONTINUES IN ITS CURRENT DIRECTION. IF PINE POINT CEASES TO EXIST, INDIAN EDUCATION WILL REVERT BACK TO THE DAYS OF PATERNALISM AND GOVERNMENT ABUSE OF INDIAN PEOPLE.

THE BIA THROUGH THE JOM PROGRAM CAN FINALLY AND TRULY POINT TO THE PINE POINT EXPERIMENTAL SCHOOL AS A MODEL OF SUCCESS. I'M SURE THERE ARE NOT MANY PROGRAMS THE BIA CAN LOOK TO WITH PRIDE.

THE BUREAU CANNOT AFFORD TO LOSE ANY CREDIBILITY AND BY USING THE EXISTING FORMULA, THE BIA STANDS TO LOSE THE MOST SOLID PROGRAM IN ITS SYSTEM

THE BUREAU OF INDIAN AFFAIRS CAN DO TWO THINGS. THEY CAN:

1) ESTABLISH A SPECIFIC SECTION IN THE EDUCATION DIVISION DESIGNED TO MEET THE NEEDS OF INNOVATIVE ALTERNATIVE SCHOOLS LIKE PINE POINT. THIS SECTION WOULD DEAL EXCLUSIVELY WITH NEW EDUCATION THEORY, EXPERIMENTAL PROGRAMS, AND A COMPREHENSIVE PLAN FOR DEVELOPING COMMUNITY BASED PROGRAMS, AND,
2) DESIGN A DIRECT CONTRACTING SYSTEM, ELIMINATING THE MIDDLE AGENCIES, AND UNNECESSARY ADMINISTRATIVE EXPENSES, IN ORDER THAT SCHOOLS (LIKE PINE POINT) CAN RECEIVE THE JOM ALLOCATIONS DIRECTLY FROM THE CENTRAL OFFICE.

THE PRESENT SYSTEM OF CONTRACTING AND PRIORITIES IMPOSES LIMITS ON PINE POINT BECAUSE WE MUST COMPETE FOR FUNDS WITH OTHER SCHOOLS, WHICH ARE PRIMARILY DEALING WITH TRADITIONAL EDUCATION CONCEPTS. THE CURRENT SYSTEM PENALIZES NEW ALTERNATIVE PROGRAMS DUE TO THE VERY NATURE OF JOM STRESSING ONLY "SUPPLEMENTAL" PROGRAMS.

PINE POINT IS AN ENTIRELY NEW SYSTEM OF EDUCATION-- NOT SUPPLEMENTAL IN SOME AREAS, BUT TOTALLY DIFFERENT FROM ANY OTHER EDUCATIONAL SYSTEM.

WE ARE CURRENTLY IN THE PROCESS OF CONSTRUCTING A NEW SCHOOL BUILDING. THE BUILDING IS DESIGNED TO FIT THE PROGRAM AND THE COMMUNITY. THIS IS HIGHLY INNOVATIVE AND WE ARE RECEIVING STATE WIDE RECOGNITION FOR THE PLAN. THIS RECOGNITION COMES FROM THE THE EDUCATIONAL COMMUNITY AT-LARGE AND NOT JUST INDIAN EDUCATION. PINE POINT

HAS LONG BEEN RECOGNIZED FOR NEW SCHOOL THEORY AND THE NEW BUILDING REPRESENTS DETERMINATION OF A COMMUNITY TO BUILD THE FINEST NEW EDUCATIONAL SYSTEM POSSIBLE FOR THE CHILDREN.

THE MAJOR FEATURE OF PINE POINT IS COMMUNITY BASED EDUCATION. THE NEW SCHOOL IS BEING DESIGNED TO FULLY DEVELOP THE CONCEPT OF COMMUNITY INVOLVEMENT.

THE BIA IS IN A POSITION TO TAKE THE LEAD IN THE OVERALL FIELD OF EDUCATION. PINE POINT STANDS AS A MODEL OF THE NEW EDUCATION.

THE NEW SCHOOL REPRESENTS THE YEARS OF FIGHTING AND STRUGGLE BY A COMMUNITY TO RETAIN AND BUILD A BETTER SCHOOL FOR THEIR CHILDREN. THIS IS TRULY, SELF-DETERMINATION. THE FUTURE HAS NEVER LOOKED BRIGHTER FOR THE PEOPLE.

IT IS IRONIC, THAT OUR BIGGEST PROBLEM WE NOW FACE COMES FROM THE BIA- AN AGENCY SUPPOSEDLY FOR INDIAN PEOPLE. IT IS EVEN MORE IRONIC, THE SPECIFIC PROBLEM IS WITH JOHNSON O'MALLEY, A PROGRAM SET UP TO MEET THE SPECIAL NEEDS OF INDIAN CHILDREN.

PINE POINT HAS MET EVERY CHALLENGE AND WE HAVE SOME ANSWERS. THE JOM POLICIES NOW USED CAN CUT PINE POINT DEEP. THE CUTBACKS MADE EARLIER HAVE SLOWED OUR GROWTH. WE CAN'T AFFORD ANY MORE LOSSES. NOR CAN THE BIA AFFORD TO HURT OUR PROGRAM BECAUSE THEY WILL HURT THEMSELVES. THE CREDIBILITY OF THE BUREAU IS NOT SUCH THAT THEY CAN ELIMINATE ANY PART OF PINE POINT.

Pine Point stands as a memorial of the committment of Indian people to better the lives of future generations.

No one- not the BIA, the federal or state governments- must be allowed to damage this program.

The records and history of these agencies are such that they cannot afford to lose programs such as Pine Point.

Pine Point School—It's History, It's Purpose, It's Preservation

HISTORY

The Pine Point Elementary School is located in the village of Ponsford, Minnesota, in the southeast corner of the White Earth Indian Reservation. Trade centers for the area are Park Rapids, twenty miles southeast, and Detroit Lakes, thirty miles southwest. This area of the State is well known for its natural beauty. The magnificent Itasca State Park is located immediately to the east of the Reservation. Both Park Rapids and Detroit Lakes are renowned as tourism centers. In fact, a large part of the economic base of the area is tourist- oriented.

In the midst of the natural beauty, many residents suffer greatly. Of all persons who suffer from economic deprivation, the Indian people suffer most deeply since their plight is compounded by racial attitudes and a history of social and educational programs that have failed to meet the needs to which they were presumably addressed.

Becker County, within which the Pine Point sector of the Reservation is located, usually ranks at or near the bottom of Minnesota counties listed by per capita income. Conversely it ranks near the top in percentage of residents dependent upon forms of public welfare. An estimated 70% of persons living in the Pine Point area have annual family income below \$3,600; 90% of heads of households have incomes below \$3,000. Unemployment and under-employment are chronic among heads of households; opportunities for employment of youth are nonexistent.

Pine Point exists in geographical, economic, and social isolation. The community is dominated by problems of poverty; the problems of poverty are inextricably linked to and compounded by problems of race. An inference may be drawn, which is, these problems may well produce a culture in which healthy "identity" is almost impossible to attain. Further, the results produce a scene in which too many human beings at best waste themselves, and at worst, destroy themselves. The objectives drawn for this project were designed to fit the needs of the community, the initial phase of the project being the school, for the community of Pine Point is in existence because of one thing....the school.

The community was considering the establishment of a school program similar in nature to the Rough Rock Demonstration School, Chinle, Arizona. The Board of Ed-cation of Pine Point was convinced this was the direction to take and instructed the school principal to conduct a study of the concepts of experimental educational programs.

The 1967 Minnesota State Legislature had passed a law that common school districts must consolidate with graded secondary school districts by 1971. It was the opinion of many that the State was encouraging the consolidation of the Pine Point School district, which, in effect, would shut down the school, at a date earlier than the actual legal deadline. The Pine Point officials were urged to begin discussions with District 309, Park Rapids, regarding consolidation. It is of importance to note that the Department of Education felt that this common school district (Pine Point) was not providing quality education. It appeared that the answer to the educational ills of this Indian community was to shut down existing educational facilities and move the children to other locations, in order that they receive "quality education." The instrument of the State being used was the increased tax levy, for a school district already noted for the lack of taxable resources. In effect, all parties concerned realized the district of Pine Point could not meet the mill levy being proposed.

At the First National Indian Education Conference held in November 20-22, 1969, in Minneapolis, Senator Walter F. Mondale, in the keynote address, stated that:

> "There is little to be proud of about a system in which 25 percent of the teachers of Indian students admit they prefer not to teach Indians. There is little to be proud of about a system which ignores the Indian half the time and demeans him the rest."

At this same Conference, the call was made for Indians to become involved in their own destiny. The conclusions drawn were unanimous: Indian education is as bad as it can be; even at its best, white dominated education insults and frustrates Indians; Indian control has never been tried in recent times; therefore, Indians should be given meaningful involvement and/or control over the education of their children.

The proposed closing of the District 25 school involved a basic contradiction. On the one hand, considerable rhetorical energy had been devoted to the need for involving Indian parents in the education of their children; on the other hand, the Indian-controlled Pine Point School was being forced into consolidation with a non-Indian school system. The theory of Indian responsibility was contradicted by the realities of school policies.

Since it appeared that little, if anything, was going to be done by the State officials about the possible shutdown of the Pine Point School, the community had to step up its proposed alternatives. On December 5, 1969, a project overview, entitled, "An Experimental Community School," was submitted to the Minnesota Indian Affairs Commission for their review and support. The presentation was made by Jerome Buckanaga at a meeting held in the village of Pine Point. It was the first documented article to appear regarding the possible alternatives discussed by the Pine Point community members. The Minnesota Indian Affairs Commission supported the proposal.

With the support of Senator Mondale and the Indian Affairs Commission, the next move was to meet with the Department of Education officials to discuss in detail the legality of a possible demonstration project and ramifications of the legislative mandate (that of 1967 regarding consolidation). It apeared to be a touchy matter because of the suggestions by Indian organizations and tribes that Indians be given the opportunity to run their own affairs. Again, the contradiction between a law and the desire of a group was readily apparent. Will Antell, Indian Education Direcotr, decided it would be worth a try to explore the possibilities and draw up detailed plans and proposals.

While yet in rough draft, the proposal received support from Indian organizations throughout the State (Minnesota Chippewa Tribe, Minneapolis Urban Indian Federation, American Indian Movement) and advanced rapidly. The plans for establishing a demonstration project in Indian education for the State of Minnesota were set in order and a deadline for completion of the proposal was June 1, 1970. The action date for Minnesota Department of Education was July1, 1970. and the proposed implementation date was September, 1970.

Throughout the month of May, 1970, negotiations were held between the school boards of Pine Point and Park Rapids, and the Director of Indian Education, to discuss the possible merger of the two schools. In order to comply with the State mandate of consolidation, the tentative solution offered by the Indian community was to become a part of the Park Rapids district but maintain Pine Point as an attendance unit of the district. There were many questions from both sides, mainly concerning funding and control. The Park Rapids Board hesitated due to concern that they might have to spend some of their own money to operate the Pine Point School. On the other hand, the Pine Point Board was concerned that the local people would have little to say about the school operations in the school they felt was theirs. Will Antell assured the Park Rapids Board that additional funds would be made available so that there would be no cost to the local taxpayer, contingent on the establishment of an Advisory Board from the local community from Pine Point.

In early June, 1970, the two school boards met at Pine Point to make a final decision. The Park Rapids School Board resolved to maintain the Pine Point School as an attendance unit of District 309 and to maintain it as an Experimental Educational Unit, for a period of one year, at which time the program would be subject to review.

On June 8, 1970, the combined school boards of Pine Point and Park Rapids met with the State Board of Education and Commissioner of Education, Howard Casemey. The State Board went on record as endorsing the experimental project and resolved that it be carried on for a period of three years.

On June 30, 1970, District 25 ceased to exist as a corporate body. The Pine Point School became the responsibility of the Park Rapids district on July 1, 1970, being known as "The Pine Point Experimental Community School."

THE CODE FOR PINE POINT SCHOOL

"We will call together men to be trained as warriors in the Indian way. We will teach them how we have survived for thousands of years on this land. We will teach them the true meaning of being a warrior in spirit. We will give them the pride of our people and we will teach them the weapons of survival.

"But, we have an even greater task in the instruction of our warriors. We will have to teach them how to survive in the world today. We will equip them well with all of the tools for surviving in the world today. They will not be dull weapons; they will be sharp and useful. We will improve and hone these weapons for our survival and our stature as a people.

"But, not only will our warriors be dedicated to the survival of our people, they will also be dedicated to teaching the immigrant culture the love the Indian feels for this land. We will teach the immigrant culture to love the animals, the fish, the birds, the earth, which we love. We will teach the immigrant culture to love the air, the winds, the clear waters and streams. We will teach him to love this land.

"For our own survival, we must teach the immigrant culture to lave as we love, for we have been here thousands of years and theirs is but a short time. We have survived great suffering and loss, but we are a great people, and the great suffering and hardships which we have survived will give us great strength........and in the future we, the people of this land, will be an even greater people."

THE PURPOSE AND OBJECTIVES

To upgrade the educational achievement of elementary school pupils in a rural school setting through a culturally sensitive behaviorially engineered instructional program. The project objectives are:

A. Generate a learning environment that is consistent with the culture and life styles of Chippewa Indian people, and which environment is perceived as desirable by the community members, parents, and pupils served by the school;

B. Initiate and instructional program that concentrates on upgrading the mathematics, reading, and overall achievement of pupils;

C. Upgrade the feelings, attitudes, and self-concepts of Indian children through strengthened educational achievement and through instructional practices consistent with the culture and life style of Chippewa Indian people;

D. Substantially reduce the secondary school dropout rate among Indian youth through upgraded educational achievement in elementary school;

E. Offer replicable procedures that yield improved educational achievement among Indian children in elementary school, that may be useful in other rural areas of Minnesota or the nation;

F. Retraining of teachers that will enable teachers to write instructional objectives, contingency contracts, and employ the laws of behavior to guide children to the instructional objectives of the school's program;

G. Provide a structure to incorporate into the school curriculum, the articulation of Indian parents through a formally organized Indian Advisory Board;

H. Demonstrate the contribution of para-professionals, drawn from the Indian adults in the community, toward the learnings of elementary school Indian children, and produce a training procedure for the selected para-professionals;

I. Provide models of instructional strategy and curricular innovation applicable to the program of instruction for Indian youth in high school; and

J. Strive for uninterrupted learning through regular attendance at school and sustained pupil interaction with instructional materials.

THE PROJECT FEATURES

A. The Community School Concept:

The community school concept suggests that the school can better serve the community by extending the program of instruction and activities to all members of the community, and offer these services during evening and weekend time blocks.

B. The Pre-School Program:

The Senate Sub-Committee regarding Indian education strongly urged the establishment of this element of education to upgrade the educational achievement of Indian children. This project was to begin as a five day a week program, ½ day for children ages three and four years old.

C. Teacher Re-training:

The effort to upgrade the learnings of school children begins and rests upon the skills of teachers to bring about the upgraded learnings of children. The teacher re-training was to include techniques that would provide skills and knowledge for teachers.

D. Indian Advisory Board:

It is the function of this committee to establish guidelines by which the entire school program would operate. The need for this organization is to keep some facets of the program under local control and autonomy, in scope with the trends of Indian operations throughout the country. It is the task of the school personnel to be in constant contact with this board and be cognizant of the desires and requestsrelative to the operations of the instructional program.

E. Individualized Instruction:

As a result of the re-training program, teachers will rearrange the curriculum materials into individual learning tasks. The activities required by the pupils in the course of school affairs, is the completion of a sequenced number of learning tasks.

The pupil will complete one task, then begin the next task in the sequence.

F. Non-graded School Organization:

In an individualized program of instruction, a grade level has no meaning. The child's progress in the school's program is his completion of the sequenced instructional tasks. In this program we have little concern about the size of a child or the length of time he puts in a room (i.e., nine months in a fourth grade classroom). It is our intent to show that an inescapable corollary to the individualized curricular tasks is the non-graded school.

G. Extended Year Program:

Based on the notion that a school does not have to operate only nine months out of the year, it is proposed that a summer operation be carried out upon the completion of the traditional nine months. The individualized curriculum will permit pupil activities to be carried out throughout the entire twelve months. In this type of operation, the pupils will determine their own rate of progress with individual tasks.

H. Indian Aspects of the Curriculum:

A fundamental thesis that permeates the plan of this project is that the heritage, culture, and traditions of the Indian people have too long been neglected. It is the feeling that the school curriculum is the vehicle to bring back the concepts of the Indian life style and history. The language of the Indian people in this area--Chippewa-- will be developed and taught as a part of the regular curriculum. It is intended to involve the Indian community very heavily in this part of the project, as resource people, and instructors of the Indian language and traditions.

ADMINISTRATIVE ORGANIZATION

In the beginning of the program, it was hoped that the administration of the Pine Point School would lie with both the local school board as well as with the Park Rapids Board.

However, the Pine Point Board was dissolved and replaced with an Indian Advisory Board. The administration lies totally with the Park Rapids School Board with the local board having input in an advisory capacity only. The fact that the Pine Point Community lost a great deal of the authority it had is a case of a large consolidated school dominating a local community. For the record, it should be pointed out that the Park Rapids School Board was not over-whelmingly in favor of merging with the Pine Point School. The same can be said about Pine Point. It was a choice neither wanted, but both attempted to work out their differences for the benefit of the teaching staff.

The Advisory Board was elected June 9, 1970, in a community election for terms of one year each. Six adult members were chosen and two high school students. Meetings were held once a month at the Pine Point School. The Superintendent and usually one school board member from Park Rapids were in attendance, along with the Principal of the school, and usually some members of the teaching staff.

In observations of the meetings, it seemed on every occasion that the Advisory Board members were uncomfortable with the meetings. As a result, not a great deal was discussed and little input was made by the members, toward the school developments. Two suggestions might be made as to why the members did not verbalize to any large extent: a) Six of the members had never served on a board of this kind previously; therefore, it could be assumed that they were at a loss as to what to do or say; b) The presence of the Superintendent and board members from Park Rapids might have caused the Indian Advisory Board to be uncomfortable. The Superintendent, an experienced and bureaucratic administrator, chaired the meetings and his style might have cautioned members from speaking out, perhaps for fear of making a mistake in the presence of persons experienced in the things they were attempting.

It became obvious to the Advisory Board that they did not really control or even begin to control the Pine Point project. They did not see the budget figures except on two occasions, and they had little to say about the fiscal aspects. Therefore, they began to lose their enthusiasm in working out a better program. At the end of the first year's operation, two members had resigned from the Advisory Board.

For the first year of operation, the Indian Advisory Board functioned as personnel selection committee since they were the primary force in selecting teacher-aids. Other than doing this, it is difficult to ascertain the importance and/or significance of an Advisory Board of this nature. Certainly, this type of Board is needed, but in this case, it did not have the necessary leeway and it appeared to lack the respect it should have had. It should be noted that the Board wanted to be involved, wanted to participate, but was never given these opportunities. Whether this is due to an authoritarian superintendent, apathetic Board of Education, or lack of experience, was not apparent. It must be stated, for the record, that the Advisory Board wanted to work with the Indian administration of the school solely, and had shown it could.

Principal - Board of Education Relationship

The Board of Education was deferential to the Pine Point program but it appeared that they would be most content to view the program from a distance. At least five of the Board members managed to attend the Advisory Board meetings at Pine Point at one time or another.

Of major interest to the Advisory Board was a heavy wave of absenteeism during the months of November and December, 1970; absenteeism from the Park Rapids High School. Some of the high school students began to show up at the elementary school and others were encouraged to do the same if they were not already attending school. In all, twenty-seven people of high school age were showing up at the school. They were not being encouraged to do so if they were still in the Park Rapids School, but if they were at home and doing nothing, they were invited to come around. The staff could not work with all these students but it was thought another staff member could be obtained.

The request for additional staff was presented to the administration for consideration. It was turned down and the State law was quoted to the effect that any student who was not yet sixteen had to be in high school. The fact that the high school was alienating these students was of little concern; what was important was the State law, and not the students. At a meeting of the principal, Advisory Board, superintendent, and two members of the Board of Education, one of the members commented to the elementary principal, "You sure do have a problem." The significance of this statement is that he did not consider these students his concern, but that of the elementary principal, when in actuality, the reverse was true.

Another matter of concern was an article which appeared in the November 12, 1970, Becker County newspaper entitled, "County Residents Request Stronger Law Enforcement." In the article, reference was made to the Pine Point School, saying that the theme of the school was to teach hate and racism. The staff of Pine Point drafted a letter asking the Park Rapids Board of Education to meet with them to offer a rebuttal to the allegations. The request was made November 17, 1970. The Board of Education read the request January 19, 1971. The matter was brought up to the Pine Point staff in March, 1971. The support of the school program in the face of all the allegations and criticisms was asked for in November. This support from the Board could have reinforced the staff and community, but they did not respond until it was too late and it did not matter any longer.

These two incidents reflect the attitude of the school board of District 309. It is assumed that they are primarily concerned about funds and fiscal responsibility; a difficult enough task. The Pine Point project is their responsibility as well and they should be able to provide strong leadership to the program. For the first year they did not exercise their strengths.

Principal - Superintendent Relationship

In examining the administrative styles of these two individuals, it could be said that they worked together toward the same goals but in different ways, which created conflicts. At least this was true for the Principal. Having spent the greater part of his lifetime in the community and on the reservation, he felt a greater urgency to attack the problems of education and social wrongs. The Superintendent, on the other hand, was an experienced administrator of funds, and was constantly aware of per pupil costs, accountability of federal funds, and his thinking about school matters was most often along these lines. With these two contrasting methods, differences were obvious, and could have created ill-feeling between the two administrators; however, open confrontations were avoided.

The issues could have been alleviated if the Superintendent was not so continually aware of accountability and was instead more aware of what is best for students. By being a morale supporter of the project as well as administrator could have resulted in a stronger, improved program. The fact that he made attempts to understand the culture and lifestyle of the Chippewa is commendable.

The Principal, on the other hand, had to comprehend the budget controls and administrative duties with which he had not worked previously, and had difficulty accepting. From this standpoint, the duties of school administration were discouraging, and the realization that some administrators may out the rules and regulations before the welfare of students was even more discouraging.

AFFECTIVE BEHAVIOR

The difficult-to-define realm of affective behavior was of central concern to the Pine Point School during its first year of operation. The total staff--professional and non-professional alike--saw this generalization as having pre-emptive importance: The children should like being in school. It seemed then, and it seems now, that much else would follow if the children first of all wanted to be in school and in the company of the people who worked there. Thus, staff members watched for student behavior which indicated comfort with themselves, their peers, their aides, their teachers, and visitors.

Early in the school year there was much behavior counter-indicative of the comfort we wanted to see. After a short period of affection-seeking, the majority of students returned to what was characteristic school behaior for them. For some, this meant withdrawing from nearly all verbal communication while in school. For others, it meant avoidance of reading because they had failed to learn to read before. For still others, this meant obviously hostile behavior toward peers--taunting, arguing, or fighting. Slowly and sometimes painfully, changes became discernible.

However, later a teacher with seven years experience at the school made this observation:

> "During the past year I have seen a definite change in the attitude of the children toward each other. Frequently, in previous years, a little disagreement would turn into a fist fight or hair pulling, & sometimes ending in parental involvement. Now I have seen little disagreements passed over with a smile or perhaps separation to find another buddy or friend and soon the disagreements were forgotten."

It has been a consistent observation by visitors that the school is characterized by a cheerfulness and activity unusual to find in schools. Relationships between children and adults seem to have gone past the testing stage. Most of the children seem to be relaxed and confident with the adults who work in the school. This is precisely what the program was intended to accomplish.

SECOND YEAR EVALUATION

At the conclusion of the second year of operation, there are several observations that can be made about the Pine Point Community School.

Two years ago we were faced with a student population that held itself in such low esteem that seven of them attempted to commit suicide. Apparently, most, if not all, the attempts were directly related to either bad experiences at school or extremely poor self concepts. The two years this school has been in operation, there has not been one such attempt. While we cannot presume to say that we have eliminated the threats of suicide in this community, we cannot help but believe that the school has had a positive impact upon this community.

One of the major objectives of the program was to make the place attractive enough so the children would enjoy themselves there. Observations indicate that the children do seem quite happy there. We recognize the fact that more needs to be done, but we feel that we have established a basis of interaction between teachers and children that will provide a vehicle for continuing friendship and growth for both.

At the beginning of the program, it was obvious that some of the students in the school had such tremendous ego problems that for all intents and purposes, they were deaf and dumb. Their degree of interaction with staff and peers was nil. This was of great concern to us, and although some of the little people here will never be classified as gregarious, we have seen an almost miraculous emergence of these children's personalities. In many school, the behavior observed would be regarded as negative, but to see a youngster begin to speak out, to see a boy engage in physical activity when two months before he would shy away from any personal contact, is extremely gratifying. To see a child begin to move about, to even see him or her "misbehave" when before there was an absence of any real behavior, is gratifying. It is nice to see children who are full of life, and is a goal that we have set out to accomplish.

We have maintained and improved on the achievement levels of our students. We have done so without the expense of destroying initiative, enthusiasm, and enjoyment that the students have in great quantity. In short, we are educating children here and also are making great strides in meeting their human needs.

In the area of instruction of Indian materials, we have continued the Chippewa language course with success. The addition of Indian aides at the school has been a positive one. The aides have exhibited great growth and even professionalism that is most gratifying. The positive influence they have exerted upon the program is beyond calculation. They have instructed children in traditional arts and crafts as well as history. They have assumed responsibilities and duties without question. One of the major reasons this school can be regarded as a success is the invaluable contribution of the aides.

Another strength of the program has been the in-service training programs carried out this year. Continued emphasis must be placed upon this for aides as well as teachers.

We believe the Pine Point School has been successful. We are educating the children here. Test data proves that. In addition, we are taking great strides in meeting the needs of the children. We are becoming more and more community-oriented and although much remains to be done, we believe we have taken the necessary firststeps to providing quality education and positive experiences that are so necessary for our children.

ANOTHER BATTLE

In the fall of 1972, Pine Point entered into its third year under the experimental program. Relationships between the Pine Point Community and the Park Rapids School Board had not been good since consolidation. The Superintendent and the Park Rapids Board had treated the Pine Point community indifferently, concerning themselves only with "watch-dogging" the monies which were being spent for the Pine Point program. They showed little concern for the experimental program, or for the Indian children who were being educated at Pine Point. Pine Point was very apparently an unwanted responsibility. On the other hand, Pine Point was a community of tough Indian people who resented the indifference of the Park Rapids Board and their single-minded concern for money.

These ill-feelings between Park Rapids and Pine Point surfaced in October of 1972. The Indian staff members of the school called a meeting. At this time, it was decided that the young Indian man, who had started the experimental program and led the community through many other struggles, be asked to serve as co-director of the school along with the person who was officially recognized as the principal. The Indian Advisory Board at Pine Point was consulted and they agreed that this man should be hired. The money for this position would have been taken from Johnson-O'Malley monies, which are federal funds for the education of Indian children; in other words, Indian money.

However, the Pine Point community had to bring this request to hire Jerry Buckanaga, as the co-director, before the Park Rapids Board for approval. After several meetings, the request was turned down. It was after this refusal that the people of Pine Point realized with full impact that as long as they were under the wing of the Park Rapids Board, they could not have any say in how monies for Pine Point were to be spent--even those monies set aside especially for the education of Indian children. The ill-feeling which had existed for three years exploded, and the people of Pine Point readied themselves for the battle that was to follow.

The first action taken by the Indian people was to have the Reservation Business Committee ban the Superintendent and Park Rapids Board form the Reservation. Since the reservation is federal trust property, this ruling by the RBC would be enforced by Federal Marshalls. This action occurred in November. The ban served the purpose of reminding non-Indians that Indian people have a unique status with respect to federal responsibilities. As much as non-Indians might complain about this ban, and the ability of Indian people to make such a ruling, it was prerogative the Indian people, who did not ask to be put on reservations in the first place, had to be made wards of the Federal Government.

After the ban had been imposed, relationships between the Park Rapids Board and the Pine Point School did not change to a great degree. Pine Point still had to go through Park Rapids on their request for money for the program. The absence of the Superintendent and Park Rapids Board at Pine Point meetings was not noticeable, since their contributions until that time had been minimal.

Pine Point was in the middle of its third and final year as an experimental program. In June, 1973, the school was to be evaluated with respect to program performance, how well the children had functioned under the experimental program, and to what degree had they improved in their basic skills. This evaluation was to take place after the staff at Pine Point School had been duly notified, and had prepared the necessary data for inspection.

In January the Superintendent of the Park Rapids District received notice that an evaluation of Pine Point would take place at the end of that month. However, he did not notify the Principal of Pine Point that this was to be conducted. The Principal, staff, and community of Pine Point knew nothing of the evaluation until Friday afternoon, February 23. The evaluators would be at Pine Point the following Monday, February 26.

On Sunday night, the community of Pine Point held a meeting in regard to the evaluation and decided that the evaluators would be allowed to come to the school, but that the Indian community would do an evaluation of the State officials instead.

Three groups of Indian people met with the evaluators. The first was the professional staff of the school; the second, a group of young Indian people from the community; the third, the elders of the community. Each group confronted the evaluators by first asking them why they had come to Pine Point School unannounced, and if they had come to close down the school which had been threatened so many times. The evaluators had no answers to these questions, but could clearly see that the people were prepared to defend their school, and the right of Indian people to control the education of their children. The evaluators left the school without accomplishing their task, and the only evaluation they offered to the Park Rapids Board and the State Department of Education was in form of a warning that Pine Point was a community that could not be threatened into submission.

Despite this warning, the Park Rapids Board arbitrarily passed a resolution in February, 1973, stating that the Pine Point School would close the following June. The people of Pine Point knew nothing of this decision until it was announced the following day in the local newspaper. Since the evaluators made no comment to the Park Rapids Board about the program, this decision could not be justified on the grounds of program failure. Once again, the small Indian community of Pine Point had been bypassed and undermined in a matter so critical as the education of its children.

Immediately after learning of the decision of the Park Rapids Board, Jerry Buckanaga summoned support for continuation of Pine Point School. The situation, however, did not look promising. Pine Point was a virtually powerless small Indian community, about to wage war with the second largest bureaucratic structure in the nation, the public school system. On the local scene, things did not look much better since there were Indian people in powerful positions in the State who were in favor of closing the school.

In December of 1971, the Indian community had appealed to the Indian Affairs Task Force of the Minnesota Conference of the United Church of Christ for support and had been assured that they would act as our advocates in dealing with the bureaucracy and the power structure.

In January, the members of the United Church of Christ Task Force met at the Pine Point School to see for themselves the kind of program we were conducting. They met with the faculty, met some of our children, and inspected our facilities. The Task Force then arranged a meeting with the Joint Religious Legislative Committee, a church related lobbying group. The Joint Religious Legislative Committee then convinced the members of the State Board of Education to travel to Pine Point to see the program for themselves. Officials of the State now realized they were not dealing solely with a powerless Indian community. There were other more powerful groups, willing to step in on our behalf. The survival of Pine Point was no longer a concern that could be brushed aside - it was a question which must be looked into and dealt with.

To reinforce the importance of the continuation of the Pine Point program, a "Friends of Pine Point School Day" was held a week after the above-mentioned meeting. The purpose of the day was to bring to Pine Point people who could be influential in the survival of the school, and impress on them the strong ties that exist between the community and the school.

Throughout the entire struggle, the students of Pine Point School had been made aware of what was happening with the school and what the consequences would be if the school did close. The children and adults of the community had written letters to the Superintendent of Park Rapids District stating that they liked the school and did not wish to see it closed. On "Friends of Pine Point School Day" these letters were put in backpacks and carried on foot by Indian youngsters from Pine Point to the area High School, a distance of nineteen miles. Showing the indifference and lack of concern that so typified relations between Park Rapids and Pine Point, the Superintendent refused to meet the students at the High School. Consequently, the day was a failure on the part of Park Rapids, those who could have been so helpful in saving the school and did not accept the invitation extended to them to visit the community and share a day with them.

To the people of Pine Point, however, this day will be remembered with pride. So often characterized as "backward" and "uninvolved", the people of Pine Point were silent no longer. The involvement of the community was total, ranging from three years to ninety years. The type of community-school relations that is described in educational manuals as desirable, yet so seldom achieved, had become reality in the small full-blooded Indian community of Pine Point.

STATE BOARD OF EDUCATION COMES TO PINE POINT

On Tuesday, April 3rd, the State Board of Education came to Pine Point. This meeting was of major significance, since it was to the State Board that the community of Pine Point would make its final, desperate appeal to save its school.

The State Board had come to Pine Point to hear testimony from those concerned about saving the school. Reverend Reuben Rock, and elder and long recognized leader of the community, was the first to address the group. He talked of the long, hard struggle which the full-bloods of Pine Point have had and how the "dark" Indians had been forgotten. Then one of their own had returned to lead them, Jerry Buckanaga. This young man had started a new kind of school for the children because the old system did not work. The community had come to believe in this man , and in the school. The Indian children were no longer taking their lives, and they liked coming to school. Reverend Rock said the people of Pine Point were like "children at the deathbed of their mother." If the school was to shut down, the spirit of the people in Pine Point would die with it.

These same sentiments were expressed by others from within and outside the Pine Point Community. The State Board was greatly impressed by the sincerity and openness of the four hours of testimony. Before coming to Pine Point, the State Board had been convinced that Park Rapids had made the right decision in attempting to close the school on June 30th. After hearing the testimony, the State Board did what one newspaper reporter had called a "190 Degree Turn-Around." The Board now thought they must do everything possible to keep the school open.

The next step taken was for the State Board to authorize a negotiating team to meet and discuss what would be the best solution to the Pine Point question. This team was to have representatives from the State Board of Education, State Department of Education, Park Rapids School Board, Minnesota Chippewa Tribe, and the Pine Point Advisory Board. The main question to be answered was how Pine Point School could be given local control of monies and programs, and yet retain legal recognition by the State Department of Education and the State Board of Education.

It was decided by the team that Pine Point be designated by the State Legislature as an "experimental project" within the Park Rapids District; but yet given local autonomy and be accountable to the State Legislature.

When an agreement was reached, after a great deal of delay while a mutually agreeable date could be found, the agreement was judged to be illegal under present State law by the Attorney General's Office. This ruling left the future of Pine Point School very much in doubt and the situation in the status-quo - the school scheduled to be closed in June.

In order for Pine Point to become an experimental project with complete program and fiscal autonomy, legislative action was required. The Chairperson of the United Church of Christ

Task Force had enlisted the support of Lt. Governor Rudy Perpich in the Pine Point School. He suggested that an amendment to the State Aids Bill, then in Conference Committee, be added that would give the school the autonomy it desired and the legal authority to exist independently. He also arranged with the Majority Leadership in both Houses to give support to the amendment. the amendment was adopted, the bill was passed, and signed into law by Governor Wendell Anderson on May 22, 1973, thus assuring that the Pine Point School will survive for another four years.

STATEMENT OF JERRY BUCKANAGA, DIRECTOR, PINE POINT EXPERIMENTAL SCHOOL, WHITE EARTH RESERVATION, MINN.

Mr. BUCKANAGA. I am Jerry Buckanaga, and I am the director of the Pine Point Experimental School, which is a program that was started in 1970. I guess that the impetus for the program was the studies that Robert Kennedy did, and Senator Mondale did, and they talked a great deal about the national tragedy and the problems that the Indian people were facing. I really believed in that.

I saw the Indian people were having problems, and I said: There is one way that we can deal with that. So we started the Pine Point Experimental School. In 1973, the State legislature passed some legislation, creating Pine Point as an independent program in an independent school district for four years.

It came up again for reconsideration this spring, and it was given another 4-year extension. We have a bill that will make it permanent.

I think that the material that I have submitted to the people here explains most of what Pine Point is about ,and what we try to do there. I guess the realities of what I am facing now is that we are being cutback. It is really ironic because we really made progress in 1976 and 1977. The legislature has said, "OK, you have done a job, and we are going to give you more time. We are going to let you run again for four years."

We are building a new school, and it is one of the most innovative buildings that will be in northern Minnesota. We have statistics, and what-have-you, to show that we have succeeded, and Pine Point is a highly successful program. We have made a lot of progress.

The biggest problem we have is the funding, and it is coming from the Bureau of Indian Affairs. I think that it is just ironic as can be, because the BIA is supposedly set up for Indian people, and specifically, we are having problems with Johnson-O'Malley.

We have been cut every year for the last 4 years, and if we keep going on the same system that they are working on now, they are going to paralyze us. We are not going to be able to do the job.

Basically, I am here to say that the Bureau of Indian Affairs is giving me a lot of trouble. It is not responsive. It is not considering innovative programs. They are talking about a formula that categorizes people, and I just cannot work with that because we are in a very specific situation, and we have very specific needs.

I think that these are the things that we have to be talking about. We cannot take it from a startup formula at the national level, and work it on down.

Two things that I would like to see done. I would like to see the establishment of a special section in the Bureau of Indian Affairs to take care of innovative programs. Pine Point is one of these programs, but we are not given special consideration. I think that we ought to be, and there are other schools that ought to be, too.

Right now we are put into a pot with all other programs throughout the country, and we are made to compete. It is not fair. I would like to see the Bureau get into something that is new, that says, if we are going to deal with education, let us deal with it. Let us not talk about formulas, or budgets all the time. Let us talk about new theories. Let us talk about new methods. Let us talk about what we can do to make things better, not only for us, but for everybody.

I think that with a program like Pine Point, the Bureau is in a pretty good position, if they want to use Pine Point. I think that it is a model, and the Bureau can look at that, and can be very proud of that.

First of all, we have to break away from the discussion of formulas and categorizing school districts, and programs. The other things that I feel a need for is to have a direct contracting system from the central office in Washington, the Bureau of Indian Affairs, directly to the offices of school districts like Pine Point.

Right now there is no such way of getting direct contracts. A lot of money is being spent on the Bureau's administration, and we channel a lot of funds into the Minneapolis area, and they break it up among a lot of agencies in the upper Midwest, and we are spending half of the money on administration.

If the Minneapolis area is going to be cut, I think that is a good move. I think that it is the type of thing that we ought to cut off. We ought to cut off the middle man. We don't need those model agencies.

I know what we need on the reservation in terms of education, and I think I can work with people in Washington. I would like to see it set up like that. Right now it is a complete runaround and there are no priorities, there are no considerations for the situations that call for money in developing programs and developing the school.

I can make a statement not only for Indians, but for everybody. I think that we are onto something at Pine Point. I think that we are ready to say to people, "This is so you can live, and we are ready to show you how, because we are doing it at Pine Point."

By the type of system that we are using, I think that we are on the threshold of making a statement of the educational world in general, and we are being looked at, we are being considered by some of the major educational agencies as something that stands to be watched very closely.

I think that we can come up with some recommendations. I think that we can pave the way for something new. I think the Bureau of Indian Affairs, if they really want to do anything, then, will have to start dealing with the people with human needs.

I have to have the chance to sit down and to talk about what type of formulae are going to be used in allocating funds. Right now, I was not involved. The tribe was not involved. Nobody was involved in Minnesota, and we have to live with this. It keeps getting cut, and if you continue to cut at Pine Point like that, you are going to paralyze us.

Those are my own comments. Like I said, most of the material is in the brochures and papers that I have submitted. This is basically what I have to say.

Mr. BLOUIN. Let me first of all thank all of you for your testimony. I have one question that I want to ask immediately of Jerry, as a result of what you have said about not having had any opportunity to comment on the regulations on the JOM basic formula that they are going to be using this year.

Is it correct that you have had no opportunity to comment?

Mr. BUCKANAGA. That is correct.

Mr. **Blouin.** I will ask each one of you if you have had an opportunity to comment on the selection process.

Mr. **Tanner.** The Bureau did send out a memorandum asking for comments, and there were many comments sent in. The majority of the comments endorsed option C of their proposal, which is one of the ones they talked about this afternoon, but that formula was never used or adopted by the Bureau.

Mr. **Blouin.** Did all of you get that memorandum and respond to it?

Mr. **Walters.** We are Indian controlled. [sic].

Mr. **Blouin.** Were any of you allowed to comment on the regulations phasing out basic support?

Mr. **Walters.** This is one question that we have brought up in our testimony. When the 638 regulations were coming out, we did a lot of commenting on them. There is the one-third clause in there which was not included. When the regulations came out finally, there was that clause. We called some attorneys and some other people, and we would still like to know how that clause got in there, phasing us out because we had been involved in signing off on the "red regulations" with Myron Jones and the people in Albuquerque and said:

> In our unique school system, we agree with the regulations, especially in those areas where there are non-Indian kids going to Indian controlled schools. In Nebraska, we are Indian controlled, and with no tax base, we need that basic support.

The first ones did not mention anything about the reduction, and then the final ones come along, and there is the clause about the reduction.

Mr. **Buckanaga.** I have another comment, regarding the discussion of formulae. I can remember sometime back we did have a chance to discuss basic funding with Bill Demmert, nothing came of that. It was like 3 years ago.

I guess my point is, I have not seen anything that I have said mean anything, not at the Washington level. It is just how much consideration they give us, and they give me where I sit now, because the Bureau people have left. They are not in the meeting. They are not sitting here.

Mr. **Blouin.** Mr. Scott is here, so he is hearing things. I am glad that he is still here to hear you.

Mr. **Buckanaga.** Going directly to the top, going directly to the Director of Education, I guess, that is where we are, or where we have been having our problems. I was Director of title IV, and my title IV funds were eliminated. Now Johnson-O'Malley is being eliminated.

Mr. **Blouin.** Maybe we could, at this point, ask Mr. Scott to respond, if he can, to the concerns that have been expressed about the comments on the regulations, phasing in and out the formulas.

Mr. **Scott.** I am not sure that I can give you the right answers that you are looking for, but I can tell you this: The regulations under Johnson-O'Malley and also under title I, title II, and Public Law 93-638, all the regulations, were set up with almost no educational people involved. As you are aware, they were set up under, at that time, the Deputy Commissioner, who is no longer with us. He had a special task force set up that wrote all the rules and regulations for both titles, I and II, and Public Law 93-638.

The thing that I do know is that there were comments that were sent to the field for response at about two different times. Whether the one-third phase out was included in at that time, I am not aware of because I have gotten involved with Johnson-O'Malley just in the past 8 months.

Mr. BLOUIN. Thank you.

Let me make just one comment: The draft proposal H.R. 9157, which I think you folks were given copies of yesterday, would take care of those kind of problems in the future. Under our proposal, the Office of Education within BIA would be in charge, exclusively, of education policy. It would not be the policy of that kind of situation repeating itself, at least as far as the law is concerned. It does not exempt that kind of thing from happening outside of that, occasionally. The intent will be very clear.

On the subject of that bill, I don't suppose that any of you have had much of an opportunity, yet, to analyze it. But that bill, the basic thrust of it is to establish a basic support program nationwide for Indian children, which would be based on the per pupil cost of educating that child.

It would go much further than any of the programs that are there today. The intent is to go beyond basic, and combine all of the supplemental programs into one, and have that all be done in a total package sometime in the next few months.

That kind of an approach, with Indian control over how those funds are directed, in the sense that there would be Indian signoff required, would that approach solve many of the kinds of problems that you are facing?

Mr. CLINE. Mr. Chairman, I think that Johnson-O'Malley for non-Indian controlled, there is evidence that the tribes have the authority to sign off there. As a result, I don't think that this is going to change the philosophy of non-Indian people in the Indian community where the Indian children are being educated with the non-Indians having control of the school.

Johnson-O'Malley does that, too, but I don't see where we really are going to benefit, unless the indication here today is that we are going to get the money and we are going to get more money than we ever had before. I just cannot believe that. The emphatic response of Dr. Demmert was that it might not be as much as we are hoping.

I would like to make one comment about Johnson-O'Malley. I think that we were the first tribe in the United States who took Johnson-O'Malley away from the State and controlled it. The three tribes in Nebraska eventually are doing that.

I think that Johnson-O'Malley is a good act for Indian education. We are saying here, in essence, when we look at this new bill, Johnson-O'Malley does not meet the needs, and this one is. I cannot buy that as an Indian.

Mr. BLOUIN. Indians do not have any control over the basic JOM program in the sense of mandatory signoff.

Mr. WALTERS. May I comment on that?

For the tribes that contract, we do.

Mr. BLOUIN. Where there is a contract?

Mr. WALTERS. Where the tribes have the contract from the Bureau, and we have the signoff from our parental advisory committees, the regulations say now, and I am sure I am right on what the regulations say, for the non-Indian controlled school in Winnebago, then we get together and say, "This is not where we want our basic support."

We have held our money back in one area because they did not agree. The school board said, "We need it here," and the advisory committee did not agree, and the advisory board held the money back. So we have used that option of veto power in the non-Indian controlled school boards.

Mr. **Blouin.** If that is the case, there are 27 schools in the country that are still receiving JOM basic.

Mr. **Walters.** But there are only very few that are Indian controlled.

Mr. **Cline.** The 638 would not make the tribe——

Mr. **Blouin.** George, how many of the 27 schools are Indian controlled?

Mr. **Scott.** Indian controlled, or at least 50 percent Indian?

Mr. **Quie.** They would have to be majority controlled.

Mr. **Blouin.** Let's put it this way—under the present law, can a tribe contract basic support funds directly with the school?

Mr. **Scott.** Yes.

Mr. **Blouin.** How many schools are in that situation?

Mr. **Scott.** None.

Mr. **Blouin.** How many tribes are in that situation?

Mr. **Scott.** Does your basic support go to the area office?

Mr. **Walters.** Yes.

Mr. **Blouin.** You are all contracting?

Mr. **Walters.** We have a contract from the area office to the tribes.

Mr. **Cline.** Under 638, they all could be.

Mr. **Blouin.** The question is, how many of those that could be, are?

Mr. **Scott.** I see nine schools that are. In those nine schools, they have a majority Indian controlled school board.

Mr. **Quie.** Nine of them have the majority on the school board.

Mr. **Scott.** Yes.

Mr. **Quie.** What about the contract that we have here?

Mr. **Scott.** I am not sure. I would have to take a look at that, and check with the area.

Mr. **Quie.** Counsel has a question. Do any of the tribes have contract arrangements if there is a situation where the school board is not Indian controlled. Is that your situation?

Mr. **Walters.** We are in that situation. We have one school that is in that situation.

Mr. **Scott.** I would have to take a look at that situation.

Mr. **Blouin.** Does that work fairly well?

Mr. **Walters.** Very well.

Mr. **Blouin.** This is the broadest definition in our bill, and we have been told by various quarters that it will cause nothing but division. It cannot work, you are going to divide the community up, and on down the line.

Mr. **Walters.** The first year, we have a split with the non-Indian people that were on the board, thinking: "How can a paraprofessional or an Indian be able to say what is good for kids, and we are 80 percent Indian."

After we have had the contract for 5 years, there is a whole new atmosphere now. It is working. When we held money this year back from the school board, as we the tribe did, there was no animosity about it at all.

Mr. **Blouin**. Which school was that?

Mr. **Walters**. It was Winnebago school.

Mr. **Quie**. Minnesota's basic support contract——

Mr. **Tanner**. In Minnesota, we work it two ways. One, the contract goes directly to the tribe, and the tribe subcontracts with the school at Pine Point, and the other one would be Nett Lake. Those are Indian schools with school board members.

The school district would still have a control in the sense that we have established local Indian education committees, and the Indian education committee have complete authority over those funds, the basic support funds, and the supplemental funds.

The committee does sign off on the basic support budget, and they make recommendations on how those basic support funds are to be used. We also had the same problem, the first time that we got ahold of all the money, and put it in those school districts. We were, more or less, thrown out, and they said: "Why don't you let the Indian people determine their own education?"

Mr. **Blouin**. Those schools are Indian controlled, is that right?

Mr. **Tanner**. Yes.

Mr. **Blouin**. In this instance, you do not have a school board that is Indian controlled like Winnebago.

Mr. **Tanner**. Winnebago is in Nebraska. Our other schools are.

Mr. **Blouin**. How does that work; is that a tribal council?

Mr. **Walters**. The parents of the children attending school elect their committee.

Mr. **Blouin**. That committee is given exclusive sign-off authority to sign off on basic funds?

Mr. **Walters**. By the tribal council. The tribal council is the initial contractor.

Mr. **Blouin**. What we have been toying with is an approach that would do just that. Have the parent committee, or whatever term you want to give it, be elected by the Indians that live in that school service area, unless the tribal constitution mandates that that kind of power rest in the hands of the tribal council.

One suggestion has been that a way of dealing with the constitutional barriers that may be there with different Indian nations, is to have the tribal council, if there is a five member school board or parent committee, nominate 10 members and have the parents select five, so that you get your tribal involvement as well as your parent control.

Then, give that parent committee total sign-off powers over all the basic and supplemental programs.

Mr. **Walters**. May I address this?

There is a uniqueness there that I think has to be looked at nationwide, because in our small communities with a definite need, most of our council members are school board members, and they are Indian controlled anyway.

What we were thinking, in looking at that bill, we already have the mechanism through Johnson-O'Malley. The only problem with the Johnson-O'Malley Act is when somebody is not following what the law says. The law says that we shall be funded at a minimum level, not less than the maximum State. In Nebraska, we are not even accredited, we are approved. As a result, we have lost a lot of land in our district, and that is the reason why we only have 7,000 acres in one district, and

12,000 in the other, because we are not accredited schools, and the non-Indian people can withhold the land out of that district, according to Nebraska law.

What we are saying is, the Johnson-O'Malley Act has that authority. We don't know how the minimum State standards got into the regulations, when the maximum State standards were put into it back in 1936 amendments of it. With maximum State accreditation, it would come into the tribe, and there would be no problem at all. We would be able to educate our kids at the State maximum, as the law states it would go in our situation. Now, nationwide, it might be different.

Mr. **Blouin**. Most schools with heavy Indian situations, it is not JOM that is the big apple. It is 874, which is not quite as adaptable as JOM is.

Mr. **Walters**. Our three schools operate right now, one at 50 percent, and the other two between 70 and 80 percent Federal funding. The total Federal programs cannot meet State accreditation.

Mr. **Blouin**. I think that ours is a better approach, which could solve this problem, assuming that we could get our share of dollars into it.

Mr. **Cline**. Listening to some Indian people, Mr. Chairman, across the country, I think that the proposed law would run into a lot of flack, because we talk about 638 self-determination, sovereignty, and very much opposed to a law that would bypass the sovereignty of a tribe, meaning the tribal government. I could not support that proposed legislation for that reason.

Mr. **Blouin**. Let me first of all say, if a structure could be developed such as the tribal council nominating 10 people, and the parents electing the five that would serve on that committee, would you, then, be able to support the approach, where the tribal government would have exclusive control over who would be put up in the beginning?

Mr. **Cline**. I went to the National Congress of American Indians, and there were some resolutions that were passed at that convention, which would say what I am saying now. Anything that would bypass the sovereignty of a tribe, such as an act of Congress that would go directly to a group on an Indian reservation, rather than to a tribe, then they are absolutely opposed to it.

Mr. **Blouin**. We are talking about signoff authority only.

Mr. Lovesee was at that council that you are referring to, the National Congress of American Indians, and maybe he would like to respond to what you are talking about.

Mr. **Lovesee**. First of all, I was at the National Congress of American Indians, and I made a statement before the delegates. I was also there at the Indian Education Concerns Committee meeting.

There was a lot of misinformation that had been put out, and there is still a lot of misinformation that is being put out. We do not have anything in the field right now which explains the bill fully because we are rewriting sections of it, even now, based on the input that we are getting back from the people. We hope that people will withhold judgment until that time.

I know that I am going to be attending several conferences in the near future to try to explain, in an open way, what we intend, rather than what other people think it is.

There are a couple of things that I would like to stress, however. No. 1, the funds do not go to a segment of the tribe. The funds continue to go to the LEA totally, just as they do now. However, what we have done is try to come up with a mechanism whereby the tribe can have input in the control of the funds, where they do not have any authority right now.

The problem that I see, with insisting, as some Indian individuals do, that all Federal funding must go to tribes even in programs where funds currently go to other recipients, such as 874—which goes to the public schools—will render any form of change impractical, because it is simply too radical a concept, to be put forward, especially 874.

Also, the resolution did not address this particular bill at all. It discussed H.R. 9158.

Mr. CLINE. They talked about the sovereignty part of the bill.

Mr. LOVESEE. There were problems about that particular bill.

Mr. CLINE. I was not involved in that. We have trouble communicating with the BIA. I am sure that if you look at the resolutions that were sent in by the tribes, and the Commissioner, Dr. Demmert, told us before lunch today that in order to expedite the communication between the tribe and the education department, we should send all of our communications to the Assistant Secretary, Mr. Gerard, and then he will put it in a special box, and then we will get the answers.

So, probably, if this law passes, we will get the same run around from HEW that we have been getting from the BIA.

Mr. BLOUIN. That would not be possible. Anything is possible in bureaucracy, let me back up on that. But it would not be possible to give you a permanent runaround because of the kind of timetable, the kind of options that we would give to the Indian tribes. The option to say: We will not give you signoff. Instead, within one year, we are going to withdraw these funds and divert them through BIA to contract schools, or BIA schools.

At that point, the structure would move over. So you would have options that would make some of the BIA bureaucrats' hair curl, turn gray prematurely, and all sorts of things.

Let me ask you just one question, and get your response. Is it the protection of tribal sovereignty that you are concerned about, that makes you leary of the package that we propose? Do you have any objection to the direction that we are trying to move in, in terms of full funding and Indian control, and the direction of funds that are there as a result of the Indian presence.

It is wanting the right kind of tribal government input; is that right?

Mr. CLINE. Personally, I am not hung-up on tribal sovereignty because I contend that a tribe and its leaders are going to be as sovereign as they want to be. I think that they will find the way to be as sovereign as they want to be, and that includes their relationship with the Bureau of Indian Affairs, the State government, the county government, et cetera.

I am not hung up on that, but I am hung up that Indians should be able to control their destiny in the area of education in particular, because as Indians we see that as the salvation of the Indian people.

Today, we brought four youngsters with us here, so that they can hear a little bit and, hopefully, understand what it takes to get them educated.

Mr. Blouin. I hope that we have not depressed them.

Mr. Cline. If there are provisions in the Act where the tribe could certainly have prerogative of getting control, let us say, under the contract with these funds——

Mr. Blouin. Contracting, for funds equal to those going to the public school, is one of the options. It is the flexibility of options that you don't have today. Once you have opted for one, you are stuck. There is no back door, so to speak. You are locked into one approach.

Once you have opted for a public school, you are there permanently. There is no way to back out of it. Is that right?

Mr. Cline. That is right.

Mr. Blouin. What we are trying to do is to give you the flexibility to move within limits. You have to be careful about local situations. There has to be some kind of longevity to it within reason but to give those options to a tribe to decide on their own whether Indian preference in hiring is good enough. To give self-determination in its broadest sense as possible to that local tribe.

We found lots of little problems develop, lots of little problems with the original draft. We are trying to work our way through it.

One comment that you have made at the end of your statement concerns me, about the absence of tribal leadership. We have had constant contact with tribal leaders around the country. We have had several of the major tribes and minor tribes testify, not just before our subcommittee, but we have been out in the field, too.

We have been in contact with the NTCA on a regular basis during our drafting to bring tribal governments——

Mr. Cline. I had an opportunity to meet with the counsel in Albuquerque. He has assured me he was going to be in Nebraska. He has not gotten there yet.

Mr. Blouin. We are working on it.

Mr. Trudell. You were speaking of tribal input, does this mean that the tribes would have knowledge of how much money they are going to get, so that we would be able to hire teachers?

Mr. Blouin. You would know it soon enough. Ideally, it is forward funded. I don't know whether we will be able to pull that off, frankly. I don't think that it is politically feasible.

Mr. Quie. We have an awful lot of forward funding. I think that by the next session we will have it all full forward funded.

Mr. Blouin. You would know at least as soon as the public school board would know what is coming down in Federal moneys. Whenever that is, the tribe would know and the parent committee would know.

Mr. Trudell. Presently, we don't even know whether we will have a school next month.

Mr. Quie. What is happening in JOM is what is causing the problem. That is really the bad feature. The rest of the programs have security.

Mr. Trudell. Where you have title IV programs, and they don't like it.

Mr. Quie. I am talking about basic support. Under basic support, the Nebraska schools have a pretty good idea of what 874 is going to be.

Mr. Walters. In Nebraska, you have to be a financial wizard to know how to operate because there are four types of views of 874, with reporting and what fiscal year is a fiscal year.

Mr. Quie. Let me go back to Minnesota schools.

Mr. Buckanaga, you get State aid and you get impact aid, and you get Johnson-O'Malley money, and you get title IV Indian Education Act. Do you get any title I of ESEA in your school?

Mr. Buckanaga. We get $14,000 under title I.

Mr. Quie. Do you get anything from your local school district from that program?

Mr. Buckanaga. No, nothing.

Mr. Quie. Mr. Schmid, you are even more limited than that, aren't you?

Mr. Schmid. We are separate from the school district.

Mr. Quie. You are actually an independent school.

Mr. Schmid. We are considered a tribal school. So we are eligible for BIA funds, and that is about the entire basis of our funds. This year, we are getting a title IV grant, and also a title I, through the BIA.

Mr. Quie. You are getting Johnson-O'Malley funds, aren't you?

Mr. Schmid. We are eligible for Johnson-O'Malley, but the Johnson-O'Malley committee is made up of parents from both our school and the public school. So our students are eligible for both JOM services, and they are not providing for both.

Mr. Quie. So while you are eligible for both, there are not any JOM services in your school?

Mr. Schmid. That is true. We are eligible for JOM services directly to our school through the JOM committee.

Mr. Quie. Do they have to physically go to another school for the services? How do they provide the assistance in your school?

Mr. Schmid. They would come over.

Mr. Quie. Does the public school count your kids, collect the money, and travel over?

Mr. Schmid. The JOM committee counts our kids along with the other kids in the district.

Mr. Quie. Does the school district count your children for State aid?

Mr. Schmid. The only State aid that we are eligible for is State aid for nonpublic schools, and it is like $8 a student.

Mr. Quie. They have cut it down from $50 to $8.

What is the plan now? What kind of security do you have to have to stay in operation?

Mr. Schmid. We are in pretty secure now with the BIA funding. The title IV funds, that is a 3-year project, just as long as we can show results at the end of each year. Our primary concern right now is finding a permanent location.

Mr. Blouin. May I ask you a question?

Do you get BIA funding, like a contract school would get it?

Mr. Tanner. Our basic money comes from BIA. Then you build on top of that.

Mr. Schmid. Yes.

Mr. Blouin. It was previously private?

Mr. Tanner. A private school is a school that was previously operated by a church or a mission, which was taken over.

Mr. Blouin. OK.

Mr. Quie. The money that goes to your school from BIA, compared to the money that goes to the BIA school, or contract school, how is it?

Mr. Tanner. It is a lot less. The tribal school, they vote on the State average plus 25 percent. In the contract schools, they have to meet the need.

Mr. Quie. You are not tribally operated. You are not a public school, and you are not a contract school.

Mr. Schmid. We are considered a tribal school.

Mr. Blouin. Like St. Francis in South Dakota.

Mr. Quie. Do you have any non-Indians that go to your school?

Mr. Schmid. We don't have any right now, but last year we did have some. We also had some in our first year of operation. There were some students that just came for the same reason that the Indian students came. They were dissatisfied with the public school, or they were not getting anywhere in the public school system.

Mr. Quie. Were they dissatisfied with your school, and left?

Mr. Schmid. No, they moved to Minneapolis.

Mr. Quie. How does the community support the school?

Mr. Schmid. Better than the non-Indian community.

Mr. Quie. How supportive is the non-Indian community of the school?

Mr. Schmid. It depends a lot on who you talk to. In the non-Indian community, some people are supportive. I think, generally, it is pretty safe to say that they are not real happy about it.

I have talked to a number of teachers at the high school, and a couple of administrators and counselors who said that they were glad we are there, partly because we are taking away a lot of their problems.

Mr. Quie. What about the church; do you have some ministers around there? I am talking about congregations.

Mr. Schmid. We had in the past, but I don't know if there are any more.

Mr. Quie. I was really impressed with your school. I was really impressed with the achievement that is occurring. I heard for so long that Indians would not stay in school. Aren't you glad that you are disproving all of that?

Mr. Tanner. The types of programs that we are establishing will make kids want to stay in school.

Mr. Quie. What is going to happen in Minnesota? I have talked to some of the people out there; Larry Kitto is one. Are we going to get some feedback on the legislation, on specifics?

Mr. Tanner. Yes. We have set up an education committee, and we have put together a subcommittee to review the information that you have sent to us.

Mr. Quie. As I mentioned earlier, rather than have a yes or no, we like it or we don't like it, I would like to have the feedback on the proposed changes, because this is not the final results.

We did what normally is not done out here. We have sent it out for everybody to look at it. Then we receive the feedback, and make the changes. Usually, you just find out what we did to you. You do have an input with us right now.

Mr. Walters. Maybe I can comment on one thing that happened 3 or 4 years ago, to give you an idea of our frustrations on JOM. We had a meeting with South Dakota, North Dakota, and Nebraska JOM directors. We got together and talked together about JOM.

The director from JOM from Nebraska said to the director from North Dakota, "Your guys go cut. We got your basic support money."

Mr. **Blouin**. That was a good way to start a meeting."

Mr. **Walters**. The same gentleman told me that we were getting South Dakota's money. The guy from Nebraska said, "Well, we are getting Nebraska's money." This is the same thing that frustrated us as far as equalized funding.

Mr. **Aitken**. But it is Minnesota that got it.

Mr. **Blouin**. Let me thank all of you for coming, for your patience and understanding of the time problems today. We hope, as Representative Quie says—this is as close as a Democrat can come to the endorsement of a Republican—that you will continue to give us the input to our legislation. We have plenty of time to do that.

The last thing that we want to do is to put out a piece of legislation that is going to bring you backwards. We want this to be an advancement in education, and an advancement of Indian self-determination across the board.

Our hearing tomorrow morning at 9 o'clock will be on title IV of the Indian Education Act. The Coalition of Indian Controlled School Boards will testify tomorrow. Due to a misunderstanding, it was omitted from today's oral testimony. They will be submitting written testimony for the record.

[The prepared testimony referred to above follows:]

MICHAEL P. GROSS
ATTORNEY AT LAW
SUITE 40, SENA PLAZA
POST OFFICE BOX 1847
SANTA FE, NEW MEXICO 87501
505/983-7319

October 13, 1977

Mr. Allen Lovesee
Advisory Study Group on Indian Education
c/o Committee on Education and Labor
Subcommittee on Elementary, Secondary and
Vocational Education
Congressman Michael Blouin's Office
Washington, D. C. 20515

Dear Mr. Lovesee:

On behalf of the Coalition and myself, I want to thank the Committee, your staff and you for the opportunity you gave me earlier this month to testify on Indian education, and specifically H. R. 9157, a truly progressive bill.

Because there was some confusion surrounding delivery of my statement on Johnson O'Malley, I am taking the liberty of sending you another copy with an appendix relating to the equal protection grounds supporting Indian-controlled schools.

The Coalition and I are now involved in developing a section by section analysis of the bill for distribution to CICSB members. When the results of this survey are in, they will be forwarded to you.

If we can be of any further help in the meantime, please let us know.

Sincerely,

Michael P. Gross
MICHAEL P. GROSS

MPG:pr

Enclosure

cc: Joe Dupris, CICSB Executive Director

STATEMENT
OF THE
COALITION OF INDIAN CONTROLLED SCHOOL BOARDS
BEFORE THE
ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION SUBCOMMITTEE
OF THE
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

OCTOBER 5, 1977

MR. CHAIRMAN AND HONORABLE MEMBERS:

My name is Michael P. Gross. I am an attorney from Santa Fe, New Mexico. Permit me first to thank you for your kind invitation of September 9, 1977 to testify on Johnson O'Malley and its place in Indian education. My thanks also to the Coalition of Indian Controlled School Boards, Denver, Colorado, under whose auspices and on whose behalf I am speaking today. The Coalition is an umbrella organization representing over 160 grassroots Indian school boards, committees and Indian controlled schools (both public and private). Because of this diversity the Coalition feels it is in a unique position to offer views on today's topic. Its members represent the spectrum of JOM recipients, from Indian contract schools to public school districts to Indian JOM parents committees. This variety of perspectives creates a challenge in developing a coherent and progressive JOM policy. We have worked hard to put such a policy together and respectfully present it to you now.

I. History

In our testimony before the Special Study Committee on Indian Education commissioned by this Committee to conduct hearings last May, the Coalition presented a concise overview of the Federal government's role in Indian education. We wish now to emphasize only one portion of that overview - the endemic, pervasive, and harmful conceptual schizophrenia which has plagued Indian education and Indian policy generally for many, many years. Although some positive steps have been taken to clarify this policy since the 1969 Report of the Special Senate Subcommittee on Indian Education, the fundamental ambiguity surrounding Indian identity and place in this country remains. We said in May and we say again that until this basic ambivalence is cleared up no true reform of Indian education will be possible. This ambivalence first appeared graphically in 1934 when, back to back, Congress enacted two inconsistent laws, the Indian Reorganization Act and Johnson O'Malley. IRA was a progressive program designed to restore Indian dignity and self-reliance through self-government and land trusts. JOM, on the other hand, was a program designed to facilitate the orderly entry of Indians into public schools. (See legislative history of JOM summarized in The Study of Title II of P.L. 93-638, NIEA, 1975, commissioned by the BIA.) Though Indians had been sent to public schools for some time and though JOM was premised in part on democratic notions of how public schools operate, an avowed purpose of JOM was to subject Indians to the acculturizing influences of public education, an aim directly in conflict with the philosophy of IRA. It is a measure of Congress's schizophrenia in 1934 that the histories of these two laws contain not a single cross-reference, not a single perception that in IRA and JOM COngress might be attempting the impossible - to give Indians back their own governments and identities while robbing them of the power to control their children's education.

This duality has now unfortunately been repeated and in some ways subtly reinforced in P.L. 93-638, whose Title I (The Indian Self-Determination Act) admirably extends and strengthens the policy of IRA, but whose Title II (The Indian Education Assistance Act) retains with but few cosmetic changes the original JOM program with its fundamental purpose of assisting public schools to accept Indians for enrollment. Over the years, it is true, JOM has occasionally been used in progressive ways not foreseen by its creators. This has been possible because of its broad language. For example, JOM played a significant role in the birth of the entire school contracting program and thus the Indian self-determination movement. But at its core the program retains its public school focus. This is where the bulk of JOM money goes. The assimilationist purpose from which this focus derives is at the bottom of most Indian education problems today. It is responsible for a century of effort to force Indians to shed their identities, languages, and cultures. Self-determination is the antidote for this program of forcible acculturation. It permits Indians to choose the patterns of life they wish, allowing for total assimilation if desired or uniquely Indian life styles, or as is most often the case, a blending of the two according to an Indian, not an Anglo, timetable. This is CICSB's bedrock principle. JOM and all other Federal Indian education programs must be geared to it. Recent JOM changes, the Red Regs in 1974 and the adoption of P.L. 93-638 later that year, have helped bring about a measure of harmonization, but much more needs to be done. The balance of this paper attempts to show how this may be accomplished.

II Present Uses

We think it useful to understand that because of its flexible language JOM has come to play a variety of roles in Indian education. The Coalition believes that none of these uses is intrinsically bad. The problem is that the Bureau has often permitted these uses for contradictory purposes, for example, using JOM to give Indians control of Bureau schools in the 1960s and early 1970s, while continuing to use the bulk of the money to assist unresponsive non-Indian controlled public schools. Naturally the JOM program has suffered from these inconsistent uses, as would any program whose goals and conception have become blurred. The different uses can be reconciled only when they relate to a precise, easily understood general principle. We believe that principle should be self-determination.

The four distinct uses of JOM at present are:

1. Basic support for public schools enrolling Indian students
2. Supplemental support for public schools enrolling Indians
3. Basic support for Indian contract schools
4. Supplemental support for Indian contract schools

Present regulations permit all four uses. We think this is proper but question whether the regulations are drawn precisely enough to ensure that JOM monies are used to further self-determination in all uses. Only if they are do we believe each of the uses is justified. We are strongly opposed, for example, to the use of JOM to bail out majority non-Indian school districts which lack sufficient operating money simply because the State does not see fit to supply them with adequate resources.

Another problem in JOM arises from the way the program is administered - without uniformity, without coherent purpose, without accountability, without true Indian in-put in many cases. In an additional respect, therefore, JOM could be improved if its administration were made more efficient. We believe this can best be accomplished by restructuring the BIA. Indian self-determination cannot flower until the BIA's Area Offices are shorn of their present policy-making functions.

The final problem of JOM is predictability. The Institute of the Southern Plains at Hammon, Oklahoma, for instance, is a small tribal organization educating a number of Cheyenne-Arapaho children outside the public school system. Because of intolerable conditions in the public schools, the Indian community decided in 1972 to start its own school. Yet, because the BIA began the school's funding from a small pilot JOM program and has only recently in FY 1976 shifted the contract to a 3100 series education program, the school has never achieved the stability of funding required for community confidence. The Bureau's failure has also subjected the school to the vagaries of other Federal programs. Just recently the school was notified that it will no longer receive Title IV, Part A non-LEA or Part B (The Indian Education Act) funds on which it had been relying because of the inadequacy of its Bureau funding. In the final analysis the community can look only to the Bureau of Indian Affairs to transform this grassroots tribally-backed project into a permanent community fixture.

This brief description of JOM uses suggests that a coherent policy allowing for them all built around self-determination is possible. For example, CICSB supports JOM uses in each of the following cases, representing the four uses previously outlined:

1. Basic Support in Indian controlled public schools: (Santee and Macy, Nebraska)

Without JOM basic support these Indian-controlled public school districts would be forced out of existence. In this case the educational responsibility for the Indian children would shift either to a consolidated, non-Indian controlled district or to the Federal government which would then have to pay the entire tab. The communities want to remain part of the State school system for intangible reasons in addition to financial ones. They wish to remain part of the larger community in Nebraska. CICSB believes that JOM is used properly to assist them in retaining local educational control while remaining in the State system. It would only suggest that BIA support be transferred at some point from JOM to the 3100 series, a move which would implicitly acknowledge the fact that these types of public school districts are as much public as Federal. They are hybrids which deserve to continue under the most stable structure possible. On the other hand, JOM should not be used to assist non-Indian public school districts to retain control over Indian education. (There may be districts where Indian control of public school districts is demographically impossible; in those cases the BIA must assert regulatory control to ensure that the Indian population is granted as much real power over their children's education as possible.)

2. Supplemental Support in Public Schools: (Seneca Nation, N.Y.)

CICSB supports supplementary JOM programs in public schools, but not for the usual reasons. We believe JOM is properly employed to win greater Indian control politically and educationally, and so-called supplementary programs over which Indians exercise veto power can do this. We are less certain that small amounts of JOM money can undo through the cliche of special education the wrongs which have been committed against Indians by unresponsive public schools. That is to say that we are more impressed with the gains which may be possible through the procedure of how these programs come into being than by anything to do with their educational content. In our view the distinction between basic support and supplementary support is thus a phony one. It is imposed from outside and is unrelated to any real distinction. There is no inherent reason, for example, to distinguish between the Englishteacher at Santee or Macy, Nebraska, who may be paid through a JOM basic support program, and the language (bilingual) teacher at Seneca, N.Y., who may be part of a JOM supplemental program. Both may be doing essentially the same thing in the classroom. Their programs have different labels, however, only because the BIA chooses to make the artificial distinction between a basic and a supplementary program. According to the BIA any part of JOM used to bring a school to a level meeting minimum state standards is called basic support while any program that builds upon a minimally adequate program as defined by the state is called supplementary. Ultimately, we think continued use of these labels is harmful, for they mask any perception of true Indian education needs, those defined by parents and Indian communities. Yet so pervasive have the labels and their cousin "special educational needs" become that they threaten to skew the entire Indian education issue. Of course some Indians do have special needs in the sense of physical or mental handicaps, and CICSB supports increased assistance for them; but we object to the broad use of the phrase in describing Indian education generally. The truth is that Indians do not have special educational needs - except to correct the deficiencies of prior unresponsive Indian education programs - any more than other American communities do. Every American community has a "special" need to control its own educational system so that its children can be brought up in a community-oriented, community-binding fashion. When programs are developed that do not focus on providing Indian communities with this essential power, as many so-called special education programs do, then the terminology becomes a euphemism hiding the underlying acculturationist policy underneath. They become excuses for programs which simply pour more money into systems which are thoroughly incapable of being truly responsive to Indians.

CICSB thus supports supplementary JOM programs only wherethey are used expressly for giving Indians greater political clout. We are frankly pessimistic about the prospects of creating educationally productive programs in schools which because of their political structure are inherently unresponsive to Indians. We do, however, recognize the political utility of giving minority Indian communities control of discrete portions of those systems' budgets. This is especially true for tiny Indian communities which may simply not be able to carry on complete school programs on their own. In other words, we find the justification for these supplementary programs in their ability to purchase a measure of economic and therefore political influence in school systems which previously had no incentive for according Indians any voice at all in school affairs.

3. Basic Support in Indian Contract Schools: (Hammon, Oklahoma)

CICSB believes JOM is most properly used when it is applied in a direct effort at giving an Indian community control of its own school. At places like Hammon the Bureau must stand ready to reverse the process of sending Indian children to public schools. JOM's language is flexible enough to authorize initial funding for schools like Hammon created in response to intolerable conditions in public schools. Eventually, however, as schools like this demonstrate their viability, the Bureau must be prepared to shift funding from the pilot or demonstration project category under which JOM necessarily places them to the more stable funding of the more established contract schools which draw 3100 series money. At Hammon the Federal government remains derelict when it creates dependencies and then permits one of its agencies, in this case HEW, to withdraw whimsically a major portion of its financial support. The root of Hammon 's current problem is the Bureau's failure to ease it into a regular funding pattern.

4. Supplementary Programs in Indian Contract Schools: (Ramah, New Mexico)

This last category of JOM uses provides Indian contract schools access to the same overall resources available to public school districts and B.I.A. Schools. Although contract schools like Ramah, Wind River or Busby may have 3100 series money sufficient to bring their budgets into line with state or national averages, these schools still generally lack access to the resources and services of state departments of education and the B.I.A. Education Division. For example, BIA operating budgets for these contract schools may still not allow for in-service teacher training, special equipment, or special programs for staff recruitment (a particularly important task for schools in remote areas). JOM plays a legitimate role when it provides some of these outside resources under direct Indian control.

III Immediate Recommendations

We believe these four uses can be maintained and reconciled by construing them in the context of self-determination. Congress is to be commended for beginning the process of defining this policy in P.L. 93-638. Now it must take steps to implement it further. CICSB's views on specific JOM issues follow:

1. We are opposed to shifting any part of JOM to HEW. JOM must be used in flexible ways conforming with the policy of self-determination. We do not believe HEW has the proper perspective to do this. Moreover, P.L. 874 is entirely distinct from JOM and must be kept that way. Although JOM and Title IV (Indian Education Act) monies may sometimes be used for similar purposes, this is rare. (See CICSB testimony May 18. 1977 before the Study Committee.) Even JOM basic support should be based on many different criteria, only one of which may be the existence of large blocks of non-taxable Indian lands within public school districts, the single P.L. 874 criterion.

2. We do favor a separate BIA line item for JOM basic support. We think such a line item would help eliminate unnecessary competition among different JOM uses. Additional BIA regulations should follow.

3. In the case of Indian contract schools JOM basic support should be connected with the BIA's Snyder Act (3100 series) monies. That is, in cases like Hammon which depend during their early stages on JOM for basic support, the BIA should make provision for an early transfer to its regular education budget, leaving JOM the responsibility for meeting unexpected needs in flexible ways.

4. JOM's flexibility is a definite plus and should be retained, assuming this flexibility relates solely to furthering the aim of Indian self-determination. Indian communities are diverse and may have many approaches to Indian education. They should be allowed choice, the essence of self-determination. JOM can help provide tools for exercising that choice.

5. Indian education is a Federal responsibility. States exercise school jurisdiction on Indian lands by Federal license (25 U.S.C. 231). The argument about whether Indian education is a state or Federal responsibility catches Indians in the middle.

In many situations, like Macy and Santee, public schools are perfectly acceptable to Indians; in other circumstances there may be no alternative to the public schools; in yet other places Indian communities may choose between public, mission, BIA, and their own contract schools. The point is that the Federal government must stand as a guarantor behind each approach. It must become an ally of every Indian community in a struggle to make each system of education responsive to Indian needs.

IV *Long Range Solution*

Ultimately the issue of responsibility must lead to reacceptance by Congress of its primary responsibility in Indian education. The passage of P.L, 93-638 is a step in this direction. But true reform has still not been attained and will not be until the remaining vestiges of the old schizophrenia are removed. For identifiable Indian communities, especially those on reservations, this will require Congress to recognize that there can be no satisfactory system of state-controlled education without massive Federal controls and in many cases without massive Federal financial assistance. Without Federal pressure states lack any incentives for cultural pluralism. On many fronts states are the natural adversaries of Indians. It is thus unrealistic to place reliance on them to do what is right in Indian education. 25 U.S.C. 231 has permitted states to exercise school jurisdiction on Indian reservations with tribal consent. Never has the Federal government attempted to impose meaningful conditions on exercise of this jurisdiction. The time has come for it to do so. At the least states must be told that their exercise of jurisdiction will not be permitted where Indian communities are gerrymandered into non-Indian school dsitricts simply to deprive Indian people of an effective voice in their own schools. Redistrictings which Indian people have struggled for at places like Menominee and Rocky Boy (Montana), where Indian communities have managed to redraw school disrtrict lines to conform to natural community lines, must no longer be considered aberrations. The Federal government should adopt means for allowing Indians whenever they reside in bona fide communities to do the same thing when they wish.

The issue in Indian education is not integration vs. segregation. It is Indian control vs. acculturation by force. Eventual assimilation of all minority groups in this country may be desirable, it may even be inevitable. The one thing it must not be, however, is coerced. The tragic fruits of the policy which thought otherwise is visible today in the form of continuing high drop out rates for Indians, low achievement scores, emotional distress and disease, alcoholism, crime, unhappiness. Appended to this paper is a short essay showing why Indian self-determination in education is constitutionally necessary. We believe Congress has the responsibility for translating this constitutional mandate into practical legislation. Two thirds of Indian children are in public schools, and for them P.L. 93-638 remains a distant dream. We believe Indian education has progressed significantly in the ten years since Sen. Robert Kennedy was named chairman of the Special Senate Subcommittee on Indian Education. The time has come for a thorough consolidation of the ideas which that Subcommittee first brought to light, ideas based on the premise that Indians should have the same right to control their own destinies, their own communities, their own schools that all other Americans have.

Thank you very much

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APPENDIX B

INDIAN CONTROL VS. SEGREGATION

By - Michael P. Gross
Attorney at Law
P. O. Box 1447
40 Sena Plaza
Santa Fe, New Mexico 87501

In the struggle for Indian rights, many arguments have surfaced against fair treatment of Indians. When Indians wish to preserve their own resources and lands they are accused of stifling development. When they wish to develop their own resources they are accused of laying waste the environment. Often they are accused of being un-American, even though the record of Indians in the wars fought by this country has been exemplary. And they are accused of demanding favored treatment when they assert their treaty and constitutional rights to special status.

But perhaps no argument against Indians is made with as much fervor or as much potential destructiveness as the argument against their right to educate their own children. This is because schools have always been the main crucible for acculturating Indians. Opponents of Indian rights have correctly chosen this arena as a major battleground for control of Indian identity. They sense that if Indians win back the right to educate their own children, the goal of submerging Indians into mainstream white America will be threatened.

Expression of anti-Indian feeling about Indian school control takes one main tack: Indian-controlled schools, it is said, are segregated. No matter that Indians usually live in homogeneous communities geographically isolated from non-Indians or that almost every other American community cherishes its right to local school control. Never mind that the charge of discrimination often comes from the very same people who have so bungled Indian education to this point that a Special Senate Subcommittee in 1969 was forced to refer to Indian education as a "national tragedy - a national challenge". When it comes to Indians, local control of local institutions is to be denied. The fact is the segregation attack serves as a smokescreen masking baser motives. Indian children bring millions of federal dollars into public schools each year. Without these Indian dollars, many public schools would not be able to afford carpets in their libraries or fancy audio visual equipment, a circumstance documented in at least one large New Mexico school district in Natonabah v. Gallup-McKinley County School District, 355 F. Supp. 716 (D.N.M. 1973).

Indians have now begun to respond to these attacks based on segregation. Here are the main points of our position:

1. Indians are not black. To compare the kind of discrimination practiced against Blacks in this country with the Indian experience is to compare volcanoes with floods. They both produce widespread destruction, but the mechanisms are totally distinct. The fact is that Indians have not suffered from the same form of discrimination to which Blacks have been subjected. Historically, Blacks have been forcibly excluded from white society (segregated), while Indians, an aboriginal people who historically occupied the entire territory of this country and lived in separate, distinct cultural and religious communities, have been forcibly included into white society, at least to a point. They have been forced to accept white values, customs, life styles, most often by being forced to attend alien schools run by alien conquerors. The purpose has been to get rid of the Indian presence by submerging it in the mainstream.

2. This form of discrimination is called coercive assimilation and carries with it the same psychological damage of segregation, though the methods of the two are radically different. A noted educational expert has said:

> It seems to me that coercive assimilation and coercive segregation say the same thing to the individual. When you segregate him coercively you say to him, "I don't like the way you are, and I don't want to associate with you," and when you try to assimilate him coercively you say to him, "I don't like the way you are, consequently I'm going to change you whether you want to be changed or not." In these respects, at least, I think the two mechanisms produce a similar impact on the child.

(Prof. Donald A. Erickson, Univ. of Chicago, in testimony at the Wyoming hearing on school district reorganization for the

3. Typically, coercive assimilation uses schools. Thus in 1934 Congress passed a law making it easier to transfer Indian children from mission and federal schools to state public schools. The Johnson O'Malley Act as it was called was adopted expressly to make Indian children go to public school with whites where "side by side with the white children, (the Indian) makes more progress toward adjusting itself to a modern world than when it attends schools maintained for Indians only." (Senate Report No. 511, 73rd Congress, 2nd Session, March 30, 1934) Since 1934, two thirds of all Indian children have found their way into public schools where they are often disdainfully, even brutally, treated. The results of such integrated education according to the Special Senate Subcommittee have been appalling:

> Public schools which have been educating Indians for some time reveal by their statistics their failure in educating Indian students. (Report at 30)
>
> ...
>
> Ever since the policy of educating Indians in public schools was adopted, it was assumed that the public schools, with their integrated settings, were the best means of educating Indians. The Subcommittee's public school findings - high dropout rates, low achievement levels, anti-Indian attitudes, insensitive curriculums - raise serious doubts as to the validity of that assumption. (Ibid. at 31)

4. Studies show that the underlying problem does not arise from placing Indians and white children in the same classroom. Nor does the Indian school movement seek racial separation. Where Indians, especially in urban areas, are dispersed among the white population and have become part of

non-Indian communities, they should be treated identically to everyone else. The real problem occurs in Indian communities such as reservations where Indian parents most often do not have the same means for influencing the education of their children available to others. Again the Subcommittee's conclusions are germane:

> At the heart of the matter, educationally at least, is the relationship between the Indian community and the public school and the general powerlessness the Indian feels in regard to the education of his children. (Report at 24)

5. The principal method for depriving Indians of an equal voice in educating their children is by depriving them of an effective ballot. This occurs in two ways, either directly by sending Indians as tuition students to school districts where their parents cannot vote; or more commonly by gerrymandering Indians into larger non-Indian school districts where the Indian vote becomes so diluted, so chronically a minority, that effective representation is impossible. It is when Indian parents try to redefine these school district lines to make them square with geographic and social reality that the charge of segregation is heard the loudest.

6. Some Indian communities have managed to achieve control of their own schools with little or no controversy and with significant improvement in the education of their children. Examples include an elementary school district created in 1970 on the Rocky Boys Reservation, Montana, and a K-12 grade school district created this year for Menominee County

(Menominee Reservation), Wisconsin. In other places, Indian school districts have sprung up naturally without the need for redistricting. Examples include public school districts on the Navajo Reservation where distance alone makes it impossible to include many Navajos in off-reservation, non-Indian school districts. Finally, there are the examples of Indian-controlled federal schools which operate in many localities, including New Mexico. These schools are entirely Indian in enrollment and are sanctioned and funded directly by Congress.

7. Legally speaking, Indian tribes are quasi- sovereign entities akin to states and enjoy inherent powers of self-government. This includes the field of education. Under federal law (25 U.S.C. 231) Indian tribes have the power to control state school jurisdiction on their reservations. The quasi-sovereign powers of Indian tribes have been repeatedly confirmed by the Supreme Court, most recently in Fisher v. District Court, 47 L. ed. 2d (1976), an adoption case, in which the Court said: "The exclusive jurisdiction of the tribal court does not derive from the race of the plaintiff but rather from the quasi-sovereign status of the Northern Cheyenne Tribe under federal law." To insist that tribes give up their power to educate their own children is to deny them the right to govern themselves.

8. Also on the legal front, more and more decisions of the Supreme Court suggest that distinctions based on cultural and religious needs may not only be permissible but necessary

in certain circumstances. These decisions include:

(a) Morton v. Mancari, 417 U.S. 535 (1974), a unanimous ruling that employment preferences for Indians within the Bureau of Indian Affairs are legally permissible because they tend to foster Indian self-government.

(b) Wisconsin v. Yoder, 406 U.S. 205 (1972), holding that Amish children in Wisconsin could be exempted at their parents' behest from compulsory school attendance after the eighth grade because such exemptions are necessary to safeguard Amish religious freedom and community identity.

(c) Lau v. Nichols, 414 U.S. 563 (1974), a ruling that the bilingual education needs of Chinese children in San Francisco must be fulfilled under federal law and regulations, even though fulfilling those needs would mean different treatment for Chinese students.

(d) Fisher v. District Court, supra, a unanimous holding that the Northern Cheyenne Tribal Court had exclusive jurisdiction over an Indian adoption proceeding, even though exclusive tribal court jurisdiction would deprive an Indian plaintiff of access to state courts on the same basis as non-Indians.

The cumulative effect of these decisions creates an important legal principle: Treatment of Indians which promotes Indian identity, Indian self-government, Indian education, and Indian self-respect is perfectly allowable; indeed for many Indians it becomes mandatory because it (a) fulfills a federal policy promoting Indian self-government, (b) makes for more responsive education, (c) protects Indian religious rights, and (d) redresses the detrimental effects of anti-Indian discrimination which forces Indians to become white in culture and life-style.

8. Even though they have the legal power to do so, most tribes and Indian communities do not want to withdraw from state education. Instead they wish to exercise the same degree of control over their children's educations that non-Indians do. To accomplish this goal, Indian communities including New Mexico Pueblos are exploring many ways of making the political system more responsive. Where Indian communities are clearly identifiable, one way to do this is by changing school district lines. By making school districts coextensive with natural community boundaries, Indian parents are given the chance to elect representative school boards just as other American communities do. In most cases such remedies have little effect on classroom composition, for in the past most Indian elementary school children from reservations have attended predominantly Indian schools near their homes anyway, and their older brothers and sisters have been dispersed to federal Indian schools and mission schools, as well as to public schools outside their communities. One New Mexico Pueblo, Zuni, has predominantly Indian enrollments in both its elementary schools and secondary schools, yet those schools are under the distant control of a school board centered in Gallup 50 miles away.

Summary:

Indian control of Indian education is neither radical, subversive, nor discriminatory. It is simply a means for granting Indian children the same educational opportunities guaranteed other Americans. These opportunities spring from the right to control local schools, an American tradition. For historical reasons having to do with American expansionism, Indians have usually been denied this right. The Indian goal of reacquiring the power to rear their own children cannot be compared with the experience of Blacks. The two groups have different histories. While white America has discriminated against both, the forms of this discrimination have differed. Blacks have been forcibly removed from white society, while Indians, up to a point, have been forcibly placed within white society. Ostracism and forced acculturation each have devastating psychological effects, but they are as distinct from one another in form as poison is from gunpowder. In Brown v. Board of Education the Supreme Court held that discrimination based on race is forbidden by the Fourteenth Amendment and must be redressed. The fact that the discrimination practiced against Indians differs from the Black experience does not diminish the urgency of redressing its harmful effects just as thoroughly.

Mr. BLOUIN. The staff will be submitting written questions to all who testified today. In the not too distant future, perhaps you can give us some answers to those, if there is no problem.

We appreciate your coming, and the subcommittee will stand adjourned until 9 o'clock tomorrow morning.

[Whereupon, at 4:20 p.m., the subcommittee adjourned, to reconvene at 9 a.m., Friday, October 7, 1977.]

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